

APPENDIX A.

BINDING RESOLUTION COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS, RESOLUTION NO. 36-25, ADOPTED JANUARY 28, 2025.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Von Rudenborg			X				
Deputy Mayor Canestrino			X				
Battaglia	X		X				
Carroll		X	X				
Mayor Labrosse						X	

CITY OF HACKENSACK

RESOLUTION NO. 36-25

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HACKENSACK COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the City of Hackensack (hereinafter the “City” or “Hackensack”) has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on June 12, 2015, the City of Hackensack filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfied its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine,” and

WHEREAS, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder’s remedy lawsuits, until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

WHEREAS, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the City's Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of 593 and a Prospective Need (New Construction) Obligation of Zero (0) due to its status as a Qualified Urban Aid Municipality; and

WHEREAS, the Amended FHA further provides that, irrespective of the DCA's calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA's "present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025", a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts ("AOC") via a directive issued on December 19, 2024; and

WHEREAS, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA's estimate of the City's Present and Prospective Need for Round 4 (2025-2035), as described in the DCA Report; and

WHEREAS, Section 3 of the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Amended FHA; and

WHEREAS, the City's acceptance of the Fourth Round obligations calculated by the DCA are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Amended FHA; and

WHEREAS, in addition to the foregoing, the City specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing ("COAH") regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a Structural Conditions Survey or similar exterior survey which accounts for a more refined estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

WHEREAS, in addition to the foregoing, the City specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in addition to the foregoing, the City reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the City's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in addition to the foregoing, the Acting Administrative Director of the Administrative Office of the Courts issued Directive #14-24 (hereinafter "AOC Directive") on December 19, 2024; and

WHEREAS, pursuant to AOC Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter "the Program"), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the City reserves any and all rights and remedies in relation to the AOC Directive; and

WHEREAS, the City seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

WHEREAS, in light of the above, the Mayor and City Council finds that it is in the best interest of the City to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA; and

NOW, THEREFORE, BE IT RESOLVED on this 28 day of January 2025, by the City Council of the City of Hackensack, Bergen County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and City Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of 593 and the DCA Fourth Round Prospective Need (New Construction) Obligation of Zero (0) as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:

a) The right to adjust the City's fair share obligations based on a Structural Conditions Survey or similar exterior survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and

b) As described in the WHEREAS section, all rights to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and

c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the City's fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the AOC Directive #14-24 issued on December 19, 2024, the City hereby directs its Affordable Housing Counsel to file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the City's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.

4. This Resolution shall take effect immediately, according to law.

**CERTIFIED TO BE A TRUE COPY OF THE RESOLUTION PASSED AT
THE CITY COUNCIL MEETING OF THE CITY OF HACKENSACK
HELD ON JANUARY 28, 2025.**


DEBORAH KARLSSON, CITY CLERK

APPENDIX B.

CITY OF HACKENSACK DECLARATORY JUDGMENT COMPLAINT, DOCKET NO. BER-L-724-25,
FILED JANUARY 29, 2025.

SURENIAN, EDWARDS, BUZAK & NOLAN LLC

311 Broadway, Suite A

Point Pleasant Beach, NJ 08742

(732) 612-3100

By: Nancy L. Holm, Esq. (Attorney ID: 013442006)

Attorneys for Declaratory Plaintiff, City of Hackensack

**IN THE MATTER OF THE
APPLICATION OF THE CITY OF
HACKENSACK, COUNTY OF BERGEN,
STATE OF NEW JERSEY**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY**

DOCKET NO.: BER-L-____

CIVIL ACTION
AFFORDABLE HOUSING DISPUTE
RESOLUTION PROGRAM
PER DIRECTIVE # 14-24

**COMPLAINT FOR DECLARATORY
RELIEF PURSUANT TO AOC
DIRECTIVE # 14-24**

Declaratory Plaintiff, the City of Hackensack, County of Bergen, State of New Jersey (hereinafter, “Hackensack” or the “City”), a municipal corporation of the State of New Jersey, with principal offices located at 65 Central Avenue, Hackensack, New Jersey 07601, by way of this Declaratory Judgment Action (“DJ Action”) as authorized under Directive # 14-24 of the Administrative Office of the Courts (“AOC”) alleges and says:

Background

1. The City of Hackensack is a municipal corporation of the State of New Jersey.
2. The Planning Board of the City of Hackensack (hereinafter, “Planning Board”) is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq., (“MLUL”), and, among other duties and obligations, is responsible for adopting the Fourth Round Housing Element and Fair Share Plan (“HEFSP”) of Hackensack’s Master Plan.

3. Through this DJ Action, Hackensack seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation: (a) to secure the jurisdiction of the Affordable Housing Dispute Resolution Program (the “Program”) pursuant to P.L. 2024, c.2 (hereinafter, the “Act”) and the Court, pursuant to AOC Directive # 14-24; (b) to have the Program and the Court approve the City of Hackensack’s Present and Prospective affordable housing obligations as set forth in the binding resolution adopted by the City, attached hereto as **Exhibit 1**; (c) to have the Program and the Court approve the City’s HEFSP to be adopted by the Planning Board and endorsed by the City Council and issue a conditional or unconditional “Compliance Certification” pursuant to the Act or other similar declaration; (d) to the extent it is not automatically granted pursuant to the Act, through the filing of this DJ Action and binding resolution, to have the Program and the Court confirm Hackensack’s immunity from all exclusionary zoning litigation, including builder’s remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of the Fourth Round, i.e., through June 30, 2035; and (e) to have the Program and the Court take such other actions and grant such other relief as may be appropriate to ensure that the City receives and obtains all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily without having to endure the expense and burdens of unnecessary third party litigation.

COUNT I

ESTABLISHMENT OF JURISDICTION UNDER P.L.2024, C. 2

4. The City of Hackensack repeats and realleges each and every allegation as set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

5. The Act represents a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 *et. seq.*

6. Among other things, the Act abolished the Council on Affordable Housing (hereinafter, “COAH”), and replaced it with seven retired, on recall judges designated as the Program. Among other things, the Act authorized the Director of the AOC (hereinafter, “Director”) to create a framework to process applications for a compliance certification.

7. On or about December 19, 2024, the Director issued Directive #14-24, which among other things, required municipalities seeking compliance certification to file an action in the form of a Declaratory Judgment Complaint and Civil Case Information Statement in the County in which the municipality is located within 48 hours after the municipality’s adoption of a binding resolution as authorized under the Act and attach a copy of said binding resolution to the DJ Action.

8. The City adopted a binding resolution establishing its present and prospective affordable housing obligations within the statutory window of time set forth in the Act and in accordance with the methodology and formula set forth in the Act, a certified copy of which resolution is attached to this DJ Action as **Exhibit 1**.

9. Based on the foregoing, the City has established the jurisdiction of the Program and the Court in regard to this DJ Action for a Compliance Certification as set forth hereinafter.

WHEREFORE, the City of Hackensack seeks a declaratory judgment for the following relief:

- a. Declaring that the City has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set

forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;

- b.** Declaring the present and prospective affordable housing obligations of the City under the Act;
- c.** Declaring the approval of the City's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the City Council, including, as appropriate and applicable, (i) a Structural Conditions Survey or similar exterior survey which accounts for a more accurate estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;
- d.** Declaring that the City continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act;
- e.** Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive #

14-24 to the City of Hackensack for the period beginning July 1, 2025 and ending June 30, 2035; and

- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

COUNT II

DETERMINATION OF THE PRESENT AND PROSPECTIVE NEED OF THE CITY OF HACKENSACK

10. Hackensack repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

11. The Act adopted the methodology to calculate every municipality's present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.

12. The Act directed the Department of Community Affairs ("DCA") to apply the methodology and to render a non-binding calculation of each municipality's present and prospective affordable housing obligations to be contained in a report to be issued no later than October 20, 2024.

13. The DCA issued its report on October 18, 2024.

14. Pursuant to the October 18, 2024 report, the DCA calculated Hackensack's present and prospective affordable housing obligations as follows:

FOURTH ROUND PRESENT NEED (REHABILITATION) OBLIGATION	FOURTH ROUND PROSPECTIVE NEED OBLIGATION (2025-2035)
593	0

15. Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a “binding resolution” determining its present and prospective affordable housing obligations to which it will commit based upon the methodology set forth in the Act.

16. Hackensack adopted a binding resolution, a copy of which resolution is attached hereto and made a part hereof as **Exhibit 1** to this DJ Action.

17. The binding resolution maintains that Hackensack’s Round 4 (2025-2035) Present Need (Rehabilitation) Obligation is 593 and its Prospective Need (“New Construction”) Obligation is 0 due to its status as a Qualified Urban Aid Municipality.

18. Hackensack seeks the approval of, and confirmation by, the Program and the Court of the Round 4 (2025-2035) Present and Prospective affordable housing obligations as set forth in the binding resolution attached hereto and made a part hereof as **Exhibit 1**, or the adjustment of those obligations consistent with the Act and all applicable regulations.

19. Pursuant to the binding resolution, the City of Hackensack reserves all rights to amend its affordable housing obligations in the event of a successful legal challenge, or legislative change, to the Act.

20. Pursuant to the binding resolution, Hackensack specifically reserves the right to seek and obtain 1) a Structural Conditions Survey or similar exterior survey which accounts for a more accurate estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack

of sanitary sewer or lack of water); 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and 7) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

WHEREFORE, the City of Hackensack seeks a declaratory judgment for the following relief:

- a. Declaring that the City has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the City under the Act;
- c. Declaring the approval of the City's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the City Council, including, as appropriate and applicable, (i) a Structural Conditions Survey or similar exterior survey which accounts for a more accurate estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an

adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;

- d. Declaring that the City continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act;
- e. Declaring and issuing a Compliance Certification and continuing immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the City of Hackensack for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

COUNT III

APPROVAL OF CITY’S HOUSING ELEMENT AND FAIR SHARE PLAN

21. The City of Hackensack repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

22. Pursuant to the Act, a Housing Element and Fair Share Plan (hereinafter, “HEFSP”) must be prepared, adopted by the Planning Board and endorsed by the municipality by June 30, 2025.

23. Hackensack hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court which

HEFSP shall apply as appropriate, any applicable adjustments, including, without limitation, 1) a Structural Conditions Survey or similar exterior survey which accounts for a more accurate estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and 7) any other applicable adjustment permitted in accordance with the Act and/or applicable regulations.

WHEREFORE, the City of Hackensack seeks a declaratory judgment for the following relief:

- a. Declaring that the City has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the City under the Act;
- c. Declaring the approval of the City's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the City Council, including, as appropriate and applicable, (i) a Structural Conditions Survey or similar exterior survey which accounts for a more accurate estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable

and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;

- d.** Declaring that the City continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;
- e.** Declaring and issuing a Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the City of Hackensack for the period beginning July 1, 2025 and ending June 30, 2035; and
- f.** Declaring such other relief that the program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

COUNT IV

CONFIRMATION OF IMMUNITY

24. The City of Hackensack repeats and realleges each and every allegation set forth in the previous paragraphs of this declaratory judgment complaint as if set forth herein in full.

25. Pursuant to the Act, a municipality that complies with the deadlines in the Act for both determining present and prospective affordable housing obligations and for adopting an appropriate HEFSP shall have immunity from exclusionary zoning litigation.

26. The City of Hackensack has met the deadline for the adoption and filing of its binding resolution not later than January 31, 2025, and the filing of this DJ Action in accordance with AOC Directive #14-24 not later than February 3, 2025, by adopting the binding resolution attached to this DJ Action as **Exhibit 1**, and has also committed to the adoption of its HEFSP by June 30, 2025.

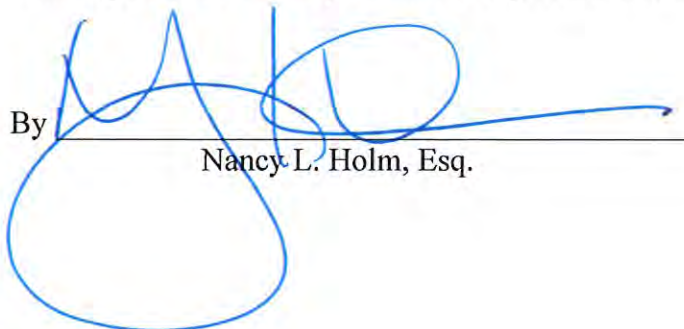
WHEREFORE, the City of Hackensack seeks a declaratory judgment for the following relief:

- a.** Declaring that the City has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b.** Declaring the present and prospective affordable housing obligations of the City under the Act;
- c.** Declaring the approval of the City's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the City Council, including, as appropriate and applicable, (i) a Structural Conditions Survey or similar exterior survey which accounts for a more accurate estimate of present need; (ii) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (iii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iv) an adjustment predicated upon regional

planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vii) any other applicable adjustment permitted in accordance with the Act and/or all applicable regulations;

- d. Declaring that the City continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established by the Act;
- e. Declaring and issuing a Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive # 14-24 to the City of Hackensack for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and all applicable regulations related to affordable housing within the State of New Jersey.

SURENIAN EDWARDS BUZAK & NOLAN LLC
Attorneys for Declaratory Plaintiff, City of Hackensack

By  _____
Nancy L. Holm, Esq.

Dated: January 29, 2025

CERTIFICATION PURSUANT TO R. 4:5-1

Nancy L. Holm, Esq., of full age, hereby certifies as follows:

1. I am an associate of the Firm of Surenian, Edwards, Buzak & Nolan LLC, attorneys for declaratory plaintiff, City of Hackensack.
2. To the best of my knowledge, there is no other action pending in any court or any pending arbitration proceeding of which the matter in controversy herein is the subject and no such other action or arbitration proceeding is contemplated. To the best of my knowledge, there are no other parties who should be joined in this action.
3. The within Complaint was filed and served within the time prescribed by the Rules of Court.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

SURENIAN EDWARDS BUZAK & NOLAN LLC
Attorneys for Declaratory Plaintiff, City of Hackensack

By: 

Nancy L. Holm, Esq.

Dated: January 29, 2025

CERTIFICATION PURSUANT TO R. 1:38-7(b)

Nancy L. Holm, Esq., of full age, hereby certifies as follows:

1. I am an associate of the firm of Surenian, Edwards, Buzak & Nolan LLC, attorneys for Declaratory Plaintiff, City of Hackensack.
2. I certify that confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

SURENIAN EDWARDS BUZAK & NOLAN LLC
Attorneys for Declaratory Plaintiff, City of Hackensack

By: 

Nancy L. Holm, Esq.

Dated: January 29, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, notice is hereby given that Nancy L. Holm, Esq., attorney for the Declaratory Plaintiff, City of Hackensack is designated as trial counsel in the above captioned matter.

SURENIAN EDWARDS BUZAK & NOLAN LLC
Attorneys for Declaratory Plaintiff, City of Hackensack

By: 

Nancy L. Holm, Esq.

Dated: January 29, 2025

EXHIBIT 1

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Von Rudenborg			X				
Deputy Mayor Canestrino			X				
Battaglia	X		X				
Carroll		X	X				
Mayor Labrosse						X	

CITY OF HACKENSACK**RESOLUTION NO. 36-25**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
HACKENSACK COMMITTING TO FOURTH ROUND PRESENT
AND PROSPECTIVE NEED AFFORDABLE HOUSING
OBLIGATIONS**

WHEREAS, the City of Hackensack (hereinafter the “City” or “Hackensack”) has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on June 12, 2015, the City of Hackensack filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfied its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine,” and

WHEREAS, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder’s remedy lawsuits, until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

WHEREAS, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the City's Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of 593 and a Prospective Need (New Construction) Obligation of Zero (0) due to its status as a Qualified Urban Aid Municipality; and

WHEREAS, the Amended FHA further provides that, irrespective of the DCA's calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA's "present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025", a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts ("AOC") via a directive issued on December 19, 2024; and

WHEREAS, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA's estimate of the City's Present and Prospective Need for Round 4 (2025-2035), as described in the DCA Report; and

WHEREAS, Section 3 of the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Amended FHA; and

WHEREAS, the City's acceptance of the Fourth Round obligations calculated by the DCA are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Amended FHA; and

WHEREAS, in addition to the foregoing, the City specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing ("COAH") regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a Structural Conditions Survey or similar exterior survey which accounts for a more refined estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

WHEREAS, in addition to the foregoing, the City specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in addition to the foregoing, the City reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the City's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in addition to the foregoing, the Acting Administrative Director of the Administrative Office of the Courts issued Directive #14-24 (hereinafter "AOC Directive") on December 19, 2024; and

WHEREAS, pursuant to AOC Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter "the Program"), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the City reserves any and all rights and remedies in relation to the AOC Directive; and

WHEREAS, the City seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

WHEREAS, in light of the above, the Mayor and City Council finds that it is in the best interest of the City to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA; and

NOW, THEREFORE, BE IT RESOLVED on this 28 day of January 2025, by the City Council of the City of Hackensack, Bergen County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and City Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of 593 and the DCA Fourth Round Prospective Need (New Construction) Obligation of Zero (0) as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:

a) The right to adjust the City's fair share obligations based on a Structural Conditions Survey or similar exterior survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and

b) As described in the WHEREAS section, all rights to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and

c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the City's fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the AOC Directive #14-24 issued on December 19, 2024, the City hereby directs its Affordable Housing Counsel to file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the City's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.

4. This Resolution shall take effect immediately, according to law.

**CERTIFIED TO BE A TRUE COPY OF THE RESOLUTION PASSED AT
THE CITY COUNCIL MEETING OF THE CITY OF HACKENSACK
HELD ON JANUARY 28, 2025.**



DEBORAH KARLSSON, CITY CLERK

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Von Rudenborg			X				
Deputy Mayor Canestrino			X				
Battaglia	X		X				
Carroll		X	X				
Mayor Labrosse						X	

CITY OF HACKENSACK

RESOLUTION NO. 36-25

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HACKENSACK COMMITTING TO FOURTH ROUND PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the City of Hackensack (hereinafter the “City” or “Hackensack”) has a demonstrated history of voluntary compliance as evidenced by its Third Round record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on June 12, 2015, the City of Hackensack filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Third Round Housing Element and Fair Share Plan, to be amended as necessary, satisfied its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine,” and

WHEREAS, that culminated in a Court-approved Third Round Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes all Mount Laurel lawsuits, including builder’s remedy lawsuits, until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”); and

WHEREAS, the Amended FHA required the Department of Community Affairs (“DCA”) to provide an estimate of the Fourth Round affordable housing obligations for all municipalities on or before October 20, 2024, based upon the criteria described in the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the Fourth Round affordable housing obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the City's Fourth Round (2025-2035) obligations as follows: a Present Need (Rehabilitation) Obligation of 593 and a Prospective Need (New Construction) Obligation of Zero (0) due to its status as a Qualified Urban Aid Municipality; and

WHEREAS, the Amended FHA further provides that, irrespective of the DCA's calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA's "present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025", a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts ("AOC") via a directive issued on December 19, 2024; and

WHEREAS, this Resolution satisfies the requirements of the Amended FHA by accepting the DCA's estimate of the City's Present and Prospective Need for Round 4 (2025-2035), as described in the DCA Report; and

WHEREAS, Section 3 of the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Amended FHA; and

WHEREAS, the City's acceptance of the Fourth Round obligations calculated by the DCA are entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Amended FHA; and

WHEREAS, in addition to the foregoing, the City specifically reserves the right to adjust its fair share obligations in accordance with applicable Council on Affordable Housing ("COAH") regulations or other applicable law based on one or more of the foregoing adjustments if applicable: 1) a Structural Conditions Survey or similar exterior survey which accounts for a more refined estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment, whether predicated upon lack of sewer or lack of water; and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including but not limited to, the Highlands Council Regional Master Plan and its build out, or the Pinelands Commission or Meadowlands Commission regulations and planning documents; and

WHEREAS, in addition to the foregoing, the City specifically reserves all rights to revoke or amend this Resolution and commitment, as may be necessary, in the event of a successful challenge to the Amended FHA in the context of the case The Borough of Montvale v. the State of New Jersey (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in addition to the foregoing, the City reserves the right to take a position that its Fourth Round Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the City's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish unchallenged numbers by default on March 1, 2025; and

WHEREAS, in addition to the foregoing, the Acting Administrative Director of the Administrative Office of the Courts issued Directive #14-24 (hereinafter "AOC Directive") on December 19, 2024; and

WHEREAS, pursuant to AOC Directive #14-24, a municipality seeking a Fourth Round Compliance Certification from the entity created by the Amended FHA known as the Affordable Housing Dispute Resolution Program (hereinafter "the Program"), shall file an action in the appropriate venue with the Program, in the form of a Declaratory Judgment Complaint within 48 hours after adoption of the municipal resolution accepting or challenging its Fourth Round fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the City reserves any and all rights and remedies in relation to the AOC Directive; and

WHEREAS, the City seeks a Compliance Certification from the Program and, therefore, wishes to file a Declaratory Judgment Complaint in the appropriate venue with the Program, along with a copy of this Resolution, within 48 hours of the adoption of this Resolution; and

WHEREAS, in light of the above, the Mayor and City Council finds that it is in the best interest of the City to declare its obligations in accordance with this binding Resolution and in accordance with the Amended FHA; and

NOW, THEREFORE, BE IT RESOLVED on this 28 day of January 2025, by the City Council of the City of Hackensack, Bergen County, State of New Jersey, as follows:

1. All of the Whereas Clauses are incorporated into the operative clauses of this Resolution as if set forth in full.

2. For the reasons set forth in this Resolution, the Mayor and City Council hereby commit to the DCA Fourth Round Present Need (Rehabilitation) Obligation of 593 and the DCA Fourth Round Prospective Need (New Construction) Obligation of Zero (0) as described in this Resolution, subject to all reservations of rights, which specifically include, without limitation, the following:

a) The right to adjust the City's fair share obligations based on a Structural Conditions Survey or similar exterior survey, a Vacant Land Adjustment, a Durational Adjustment, and all other applicable adjustments, permitted in accordance with applicable COAH regulations or other applicable law; and

b) As described in the WHEREAS section, all rights to revoke or amend this Resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA; and

c) The right to take any contrary position, or adjust its fair share obligations, in the event of a third party challenge to the City's fair share obligations.

3. Pursuant to the requirements of the FHA as amended, and the AOC Directive #14-24 issued on December 19, 2024, the City hereby directs its Affordable Housing Counsel to file a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement (Civil CIS), in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours of the adoption of this Resolution, so that the City's Fourth Round Housing Element and Fair Share Plan can be reviewed and approved.

4. This Resolution shall take effect immediately, according to law.

**CERTIFIED TO BE A TRUE COPY OF THE RESOLUTION PASSED AT
THE CITY COUNCIL MEETING OF THE CITY OF HACKENSACK
HELD ON JANUARY 28, 2025.**


DEBORAH KARLSSON, CITY CLERK

Civil Case Information Statement

Case Details: BERGEN | Civil Part Docket# L-000724-25

Case Caption: IN THE MATTER OF HACKENSACK CITY

Case Initiation Date: 01/29/2025

Attorney Name: NANCY L HOLM

Firm Name: SURENIAN, EDWARDS, BUZAK & NOLAN LLC

Address: 311 BROADWAY STE A

POINT PLEASANT BEACH NJ 08742

Phone: 7326123100

Name of Party: PLAINTIFF : City of Hackensack

Name of Defendant's Primary Insurance Company

(if known): None

Case Type: AFFORDABLE HOUSING

Document Type: Complaint

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: City of Hackensack? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO Medical Debt Claim? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

01/29/2025

Dated

/s/ NANCY L HOLM

Signed

APPENDIX C.

[RESERVED] ORDER FIXING MUNICIPAL OBLIGATIONS FOR “PRESENT NEED” AND
“PROSPECTIVE NEED” FOR THE FOURTH ROUND HOUSING CYCLE, ENTERED DATE.

APPENDIX D.1

SETTLEMENT AGREEMENT BETWEEN FAIR SHARE HOUSING CENTER AND THE CITY OF
HACKENSACK, DATED SEPTEMBER 10, 2020.

AGREEMENT TO RESOLVE ISSUES BETWEEN THE CITY OF HACKENSACK AND FAIR SHARE HOUSING CENTER CONCERNING THE CITY'S MOUNT LAUREL FAIR SHARE OBLIGATIONS AND THE MEANS BY WHICH THE CITY SHALL SATISFY SAME.

In the Matter of the City of Hackensack, County of Bergen, Docket No. BER-L-5731-15

THIS SETTLEMENT AGREEMENT ("Agreement") made this _____ day of _____, 2020, by and between:

CITY OF HACKENSACK, a municipal corporation of the State of New Jersey, County of Bergen, having an address at 65 Central Avenue, Hackensack, NJ 07601 (hereinafter the "City" or "Hackensack");

And

FAIR SHARE HOUSING CENTER, having an address at 510 Park Boulevard, Cherry Hill, New Jersey 08002, (hereinafter "FSHC");

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), the City filed the above-captioned matter on June 15, 2015 seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), as may be further amended in accordance with the terms of this settlement, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the Mount Laurel doctrine; and

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

WHEREAS, the immunity secured by Hackensack remains in place as of the date of this Agreement; and

WHEREAS, the Trial Court appointed Mary Beth Lonergan, P.P., A.I.C.P., as the "Special Master" in this case as is customary in Mount Laurel matters; and

WHEREAS, with Ms. Lonergan's assistance, Hackensack and FSHC have engaged in good faith negotiations and have reached an amicable accord on the various substantive provisions, terms and conditions delineated herein; and

WHEREAS, through that process, the City and FSHC agreed to settle the litigation and to present that settlement to the Trial Court, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households; and

WHEREAS, at this time and at this particular point in the process resulting from the Mount Laurel IV decision, when fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Rehabilitation obligation, and Gap + Prospective Need (1999-2025) affordable housing obligation (hereinafter "Round 3" obligation), instead of doing so through plenary adjudication of the Rehabilitation

obligation and Round 3 obligation.

NOW, THEREFORE, in consideration of the promises, the mutual obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties, the parties hereto, each binding itself, do hereby covenant and agree, each with the other, as follows:

Settlement Terms

The City and FSHC hereby agree to the following general terms, subject to any relevant conditions set forth in more detail below:

1. Hackensack's "Rehabilitation" obligation is 582.
2. Hackensack's "Prior Round" obligation is 201.
3. Hackensack's Round 3 (Gap and Prospective Need) obligation is 0.
4. **Satisfaction of Rehabilitation Obligation:** The City has a 582-unit Rehabilitation obligation, and has/shall satisfy that obligation as follows:
 - a) The Housing Authority of City of Hackensack has rehabilitated the following units.

Project	Total Units	COAH Eligible Units*	Major Systems Upgraded	Total Expended Since 2010	Average Cost Per Unit
Barsalona Court	50	48	Sewer line replacement HVAC – in-unit heating	\$386,738.62	\$8,407.36
Harry Berkie Gardens	100	98	Generator Elevators Kitchen Cabinets	\$1,258,960.83	\$12,589.61
Oratam Court	144	133	Roof Common area HVAC Sidewalk handrails Pedestrian concrete/ driveways/parking Building envelop, caulking sealant	\$6,668,767.37	\$46,310.88
Ostrowski Court	50	46	Roof	\$1,275,457.53	\$25,509.15
Windhall Towers	100	100	Site work, carpet, elevators, energy update	\$706,805.71	\$7,068.06

			Kitchen cabinets		
79 Campbell Ave	1	1	To be provided		
70 Cedar Ave	2	2	To be provided		
83 Linden Street	1	1	To be provided		
135 Ricardo Pl	1	1	To be provided		
73 Vanderbeek	1	1	To be provided		
Total Units Rehabilitated Since 2010	450	431			
Balance of Rehabilitation Obligation		151			

*due to HUD income standards v. Region 1 income standards

b) The remainder of the rehabilitation obligation shall be satisfied by participating in the Bergen County Home Improvement Program.

5. **Satisfaction of Prior Round Obligation:** Hackensack has a 201-unit Prior Round obligation, and will satisfy that obligation as follows:

Housing Type	Project/Address	Year Built	Units	Rental Bonus	Total Credits
Family For-Sale	Clinton Terrace Condos	1994	22	0	22
Family For-Sale	Pulaski Place Condos	1982	4	0	4
Family For-Sale	Franklin Garden Condos	1984	2	0	2
Senior Rental	Patrick DiZenzo Court	1982	50*	0	50
Supportive/Special Needs	AAH Bergen County 266 Spring Valley Avenue (Group Home)	1995	3		3
Supportive/Special Needs	Advance Housing 279 Clark Street (Group Home)	1999	2		2
Supportive/Special Needs	Advance Housing 10 Orchid Street	1999	2		2

	(Group Home)				
Supportive/Special Needs	Advance Housing 451 Heath Place (Group Home)	1999	2		2
Supportive/Special Needs	Bergen & Passaic ARC (Group Home)	1980	4	0	4
Supportive/Special Needs	Comprehensive Behavioral Healthcare 298 Jackson Street	1988	7		7
Supportive/Special Needs	Community Action for Independent Living 155 Poor Street (Group Home)	1996	5		5
Supportive/Special Needs	NJ ARC Bergen-Passaic Unit 279 Lookout Avenue	1980	6	0	6
Family Rental (Proposed)	100% Affordable Project	Proposed	60	51**	111
TOTAL			169	51**	220

* Maximum 25% cap on age-restricted units

** 25% Rental bonus cap

In order to receive credit for 50 of the 59 units from the Patrick DiZenzo Court project toward its Prior Round obligation (the 9 excess credits being above the 25% senior cap), prior to the Compliance Hearing in this matter, the City shall enter into an agreement with the Hackensack Housing Authority (HHA) to remove the “residency preference” from its affirmative marketing and deed restriction, if applicable, and the HHA will commence with affirmatively marketing the units to very-low, low- and moderate-income households within the region with the first vacancy to occur within two (2) years of the Court’s approval at a duly-noticed Fairness Hearing of this Agreement.

6. Municipally-Sponsored Project: 60-unit family rental project

a. The City of Hackensack is currently considering the following 60-unit, 100% affordable, family rental projects to satisfy its prior round obligation. The proposed projects are in varying stages of completeness, due to the impact of the SARS-COV2 pandemic and the resulting State of Emergency.

i. **251 West Railroad Avenue Family Apartments:** Greater Bergen Community Action, Inc. has partnered with Pennrose to build a 42-unit family rental project on this City-owned parcel. Greater Bergen/Pennrose is looking to increase the project to 60 units to satisfy the City’s prior round obligation. Pennrose is ready to move forward with its 9% tax credit application for 2021. The City will support

Pennrose/Greater Bergen in submitting 9% tax credit applications for the 2021 and 2022 application cycles, and if the project does not receive funding in either cycle, then the City will remove its support from the project and pursue a different project, or begin the process set forth in paragraph 7.

ii. **Hackensack Housing Authority (HHA):** Prior to the Compliance Hearing in this matter, the City will enter into a Memorandum of Understanding with the HHA supporting the HHA's efforts in building a 60-unit, 100% affordable project within the City. The agreement may be the same agreement that includes the removal of the residency preference on the Patrick DiZenzo Court units set forth in paragraph 5 above. The City will commit to purchasing land, up to a specific dollar amount, or donating suitable City-owned land, if any such site is available, for the HHA's project.

iii. **Housing Authority of Bergen County (HABC):** HABC is proposing a mixed-use, 100% affordable project along Hudson Street. Due to the serious impact the coronavirus has had on Bergen County and on HABC's residents, the details of this project have been delayed significantly and will likely not be ready to pursue 9% tax credit funding until at least 2021. Prior to the Compliance Hearing in this matter, the City will enter into a Memorandum of Understanding with the HABC supporting its efforts in constructing its project.

iv. **"Arena Diner" Project by Hampshire Properties:** Hampshire Properties is a current redeveloper of a project in the Main Street Rehabilitation Area, and has expressed interest in providing a 100% affordable project on what is known as the "Arena Diner" site, located at 250 Essex Street (Block 232, Lot 1.01). The City is currently in negotiations with Hampshire to determine the number of units that can be accommodated on the site. Should the City and Hampshire come to an agreement as to the project, the City and Hampshire will enter into a Memorandum of Understanding supporting its efforts in constructing the project.

b. In accordance with N.J.A.C. 5:93-5.5, the City recognizes that it must provide evidence that the municipality has adequate and stable funding for any non-inclusionary affordable housing developments. The municipality is required to provide a pro forma of both total development costs and sources of funds and documentation of the funding available to the municipality and/or project sponsor, and any applications still pending. In the case where an application for outside funding is still pending, the municipality shall provide a stable alternative source in the event that the funding request is not approved. The City meets this obligation as follows: the City intends to fund the project with nine percent (9%) tax credits and will adopt a resolution of intent to fund for any shortfall associated with the project. In the event that none of the projects specified above are able to secure nine percent (9%) tax credits within the parameters set forth above, in the 2021 or 2022 9% tax credit application cycles, the City may utilize other available funds, including four percent (4%) tax Credits and bonding for the project(s) that have not secured funding, or secure redevelopment agreements in accordance with the terms of paragraph 7.

c. In accordance with N.J.A.C. 5:93-5.5, for non-inclusionary developments, a construction or implementation schedule, or timetable, shall be submitted for each step in the development process, including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, selection of a contractor and

construction. The municipality shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity. Prior to the final judgment in this matter, as part of the timeframe described in Paragraph 15, the City will have chosen a project and developer of that project, and will provide a proposed Construction Schedule and Pro Forma for the proposed project.

7. Main Street/ Johnson Avenue; Essex Street/ Hudson Street; and Essex Street/Railroad Avenue Inclusionary Overlay Zone (IO-1). The City, which has historically included very-low, low, and moderate-income households, demonstrates its continued commitment to providing affordable housing with the implementation of an Inclusionary Overlay Zone, which will require that when any of the designated areas redevelop, that 10% of the total number of residential units be set aside for affordable households. The Overlay Zone is depicted in the Maps attached hereto as Exhibit A. Subject to all relevant notice and public hearing provisions pursuant to the New Jersey Municipal Land Use Law and consistent with its Master Plan, the City shall within 120 days of the approval of this Agreement at a Fairness Hearing adopt and implement the an overlay zoning ordinance in the Overlay Zone, allowing densities of 35-50 units/acre with a ten (10) percent affordable housing set-aside. The form of ordinance shall be developed prior to the fairness hearing collaboratively with the Special Master and FSHC and adopted prior to the Compliance Hearing. The ordinance shall require that any new residential development within the overlay zone have a ten (10) percent affordable housing set-aside and replace any underlying residential zoning for new residential development within the zone after the effective date of the ordinance; comply with UHAC and related requirements of this agreement. The City shall also include the Overlay Zone and a description of the planning rationale for it as part of its Housing Element and Fair Share Plan to be adopted pursuant to paragraph 15.

For any reason, should the City be unable to move forward with the proposed mechanisms identified in Paragraphs 5 and 6 above, the City shall adopt a Redevelopment Plan for an appropriate portion of the area known as the IO-1 Zone, depicted on Exhibit A, or at the City's sole discretion, for another site(s) outside of the IO-1 Zone, allowing densities of 35-50 units/acre with a ten (10) percent affordable housing set-aside. Should the City choose to proceed with this mechanism to satisfy any portion of its Prior Round Obligation, within two years of the Fairness Hearing approving this Agreement, the City will select redevelopers that either have site control or a plan in place for obtaining site control, in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., for the sites in the zone that will produce at least the number of affordable units required to fill the vacancy in the City's Fair Share Plan, which shall conform with the terms of this agreement and include at least 60 family rental units between any mechanisms completed through paragraph 6 and substituted in this paragraph, and not including any other mentioned compliance mechanism in this Agreement. Within 12 months of selecting redevelopers, the City will enter into Redevelopment Agreements with the redevelopers that when combined show agreements to produce at least the amount of affordable units needed to fill the vacancy in the City's Fair Share Plan. If any of these deadlines are not met the City may seek alternative compliance techniques for the production of at least the number of affordable units needed to fill the vacancy in the City's Fair Share Plan otherwise in compliance with the terms of this Agreement, subject to the approval of FSHC and the Court, provided that even if such alternative techniques are approved the City will leave the Redevelopment Plan for these sites in place with the required ten (10) percent affordable housing set aside.

8. The City agrees to require thirteen percent (13%) of all the affordable units referenced in this plan, with the exception of units constructed as of July 1, 2008, and units subject to preliminary or final site plan approval as of July 1, 2008, to be very low income units (defined as units affordable to households earning thirty percent (30%) or less of the regional median income by household size), with half of the very low income units being available to families. At least 13 percent of the units in each bedroom distribution in the 100% affordable housing project as described in Paragraph 6 shall be very low income units, and for each redevelopment project developed in accordance with Paragraphs 6 and 7 at least 13 percent of the affordable units in each bedroom distribution shall be very low income units.

9. Hackensack will apply "rental bonus credits" in accordance with N.J.A.C. 5:93-5.15(d).

10. At least fifty percent (50%) of the units addressing the City's Prior Round obligation and developed pursuant to the overlay zoning referenced in paragraph 7 shall be affordable to a combination of very-low-income and low-income households, while the remaining affordable units shall be affordable to moderate-income households.

11. A minimum of twenty-five percent (25%) of the City's Prior Round obligation and units developed pursuant to the overlay zoning referenced in paragraph 7 shall be met through rental units.

12. The City agrees to comply with COAH's Round 2 age-restricted cap of twenty five percent (25%), and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the City claim credit toward its fair share obligation for age-restricted units that exceed twenty five percent (25%) of all units developed or planned to meet its Prior Round obligation and all units developed pursuant to the overlay zoning referenced in paragraph 7.

13. The City and/or its Administrative Agent shall add the following entities to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5): Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002), the New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County Branch of the NAACP, Bergen County United Way, and the Supportive Housing Association. As part of its regional affirmative marketing strategies during implementation of its fair share plan, the City and/or its Administrative Agent shall also provide notice of all available affordable housing units to the above-referenced organizations and ensure posting of all units on the New Jersey Housing Resource Center, <https://www.nj.gov/njhrc/>.

14. All affordable housing units created pursuant to the measures set forth in this Agreement shall comply with the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be affordable to households earning at or below 35 percent of the regional median household income by household size, 13 percent of affordable units in such projects shall be required to be affordable to households earning at or below 30 percent of the regional median household income by household size subject to Paragraph 8 herein, and all other applicable law. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law. The City, as part of the Housing Element and Fair Share Plan that will be prepared, adopted and endorsed as a result of this Agreement, shall adopt and/or update appropriate

implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied.

15. Upon full execution of this Agreement, Hackensack shall notify the Court so that a Fairness Hearing can be scheduled to approve the Agreement. Hackensack will place this Agreement on file in the City's municipal building and file a copy with the Court 30 days prior to the Fairness Hearing, at which the City will seek judicial approval the terms of this Agreement pursuant to the legal standard set forth in Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. City of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). Notice of the Fairness Hearing shall be published at least 30 days in advance of the Hearing. Within 120 days of the approval of this Agreement by the Court after a Fairness Hearing, Hackensack will adopt a Housing Element and Fair Share Plan, along with a Spending Plan, and adopt all resolutions and ordinances required to be adopted as part of this Agreement, and will submit same to the Court, the Court Master, and FSHC for review. The City will then apply to the Court for the scheduling of a "Compliance Hearing" seeking judicial approval of Hackensack's adopted Housing Element and Fair Share Plan and other required documents. Although it is expected that the Special Master will provide the majority of the required testimony at both the Fairness Hearing and the Compliance Hearing, Hackensack shall also make its consulting planner and any other relevant witnesses available for testimony at the Hearings. FSHC shall not challenge the validity of any of the documents attached hereto, or the validity of the City's Fair Share Plan so long as it complies with the terms of this Agreement. If the Fairness and Compliance Hearings result in approval of this Agreement and the City's Fair Share Plan, the parties agree that the City will be entitled to either a "Judgment of Compliance and Repose" ("JOR") or the "judicial equivalent of substantive certification and accompanying protection as provided under the FHA," 221 N.J. at 6, which shall be determined by the trial judge. Each party may advocate regarding whether substantive certification or repose should be provided by the Court, with each party agreeing to accept either form of relief and to not appeal an order granting either repose or substantive certification. Among other things, the entry of such an Order shall maintain Hackensack's immunity from all Mount Laurel lawsuits through July 2, 2025.

16. Subsequent to the signing of this Agreement, if a binding legal determination by the Judiciary, the Legislature, or any administrative subdivision of the Executive Branch determines that Hackensack's Round 3 present need is decreased to 466 or less, with any relevant appeal periods having passed, the City may file a proposed form of Order, on notice to FSHC and the City's Service List, seeking to reduce its Round 3 obligation accordingly. Such relief shall be presumptively granted. Notwithstanding any such reduction, the City shall be obligated to implement the Fair Share Plan prepared, adopted and endorsed as a result of this Agreement, including by leaving in place any site specific zoning adopted or relied upon in connection with the Plan approved pursuant to this Agreement, and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the City's obligation below what is established in this Agreement does not provide a basis for seeking leave to amend this Agreement or the Fair Share Plan adopted pursuant to this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1.

17. Income limits for all units that are part of the Fair Share Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the City annually within thirty (30) days of the publication of determinations of median income by the United States Department of Housing and Urban Development ("HUD") as follows:

- a. Regional income limits shall be established for the Housing Region in which the City is located (in this case, Housing Region 1) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total number of households from the most recent decennial Census in the City's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
- b. The income limits attached hereto as Exhibit B are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2020, and shall be utilized until the City updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
- c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the City annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
- d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement, the terms of which shall also be reflected in the City's Affordable Housing Ordinance.

18. The City shall prepare a Spending Plan for approval by the Court during the duly-noticed Compliance Hearing. As part of that Spending Plan the City shall develop affordability assistance program(s) to assist low- and very-low-income households in accessing affordable rental homes in the City. FSHC reserves its right to provide any comments or objections on the Spending Plan to the Court upon review. Upon approval by the Court, the City and FSHC agree that the expenditures of funds contemplated in the City's Spending Plan shall constitute the "commitment" for expenditure required pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period contemplated therein commencing in accordance with the provisions of §

re Tp. Of Monroe, 442 N.J.Super. 565 (Law Div. 2015) (aff'd 442 N.J.Super. 563). Upon approval of its Spending Plan, the City shall also provide an annual Mount Laurel Trust Fund accounting report to the New Jersey Department of Community Affairs, Council on Affordable Housing, Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to FSHC and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, Local Government Services or FSHC.

19. On the first anniversary of the approval of the City's Housing Element and Fair Share Plan after a Compliance Hearing, and every anniversary thereafter through July 2, 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 FSHC, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC. In addition to the foregoing, the City may also post such activity on the CTM system and/or file a copy of its report with the Council on Affordable Housing or its successor agency at the State level.

20. The Fair Housing Act includes two provisions regarding actions to be taken by the City during the ten-year period of protection provided in this agreement. The City agrees to comply with those provisions as follows:

- a. For the midpoint realistic opportunity review due on 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. 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. Any interested party may by motion request a hearing before the Court regarding these issues.
- b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the approval of the City's Housing Element and Fair Share Plan after a Compliance Hearing, and every third year thereafter, 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 the family very low income requirements referenced herein. 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 housing obligation under the terms of this settlement.
- c. In addition to the foregoing postings, the City may also elect to file copies of its reports with the Council on Affordable Housing or its successor agency at the State level.

21. This Agreement may be enforced by the City or FSHC through a motion to enforce litigant's rights or a separate action filed in Superior Court, Bergen County. If FSHC determines that such action is necessary, the City consents to the entry of an order providing FSHC party status as an intervenor solely for purposes of its motion to enforce litigant's rights.

22. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement. However, if an appeal of the Court's approval or rejection of the Settlement Agreement is filed by a third party, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division, and New Jersey Supreme Court, and to continue to implement the terms of the Settlement Agreement if the Agreement is approved by the Trial Court unless and until an appeal of the Trial Court's approval is successful, at which point the Parties reserve their right to return to the *status quo ante*. In this regard, the City and FSHC acknowledge that the Parties have entered into this Agreement to settle the litigation and that each is free to take such position as it deems appropriate should the matter return to the *status quo ante*.

23. The City agrees to pay \$10,000 to FSHC, payable within 10 days of judicial approval of this Agreement pursuant to a duly-noticed Fairness Hearing.

24. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

25. This Agreement shall be governed by and construed by the laws of the State of New Jersey.

26. This Agreement may not be modified, amended or altered in any way except by a writing signed by both the City and FSHC.

27. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.

28. The City and FSHC acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each person to sign this Agreement is the proper person and possesses the authority to sign the Agreement, that this Agreement contains the entire understanding of the City and FSHC and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

29. The City and FSHC acknowledge that this Agreement was not drafted by the City and FSHC, but was drafted, negotiated and reviewed by representatives of the City and FSHC and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. The City and FSHC expressly represent that: (a) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (b) it has conferred due authority for execution of this Agreement upon the persons executing it.

30. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both the City and FSHC.

31. This Agreement constitutes the entire Agreement between the City and FSHC hereto and supersedes all prior oral and written agreements between the City and FSHC with respect to the subject matter hereof except as otherwise provided herein.

32. No member, official or employee of the City shall have any direct or indirect interest in this Settlement Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

33. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which representatives of the City and FSHC have executed and delivered this Agreement.

34. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the City and FSHC by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

TO FSHC:

Adam Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
Email: adamgordon@fairsharehousing.org

TO THE CITY:

Nancy L. Holm, Esq.
Surenian, Edwards & Nolan LLC
707 Union Avenue, Suite 301
Brielle, NJ 08730
Phone: (732) 612-3100
Telecopier: (732) 612-3101
Email: nlh@Surenian.com

**WITH A COPY TO THE
CITY CLERK:**

Deborah Karlsson, City Clerk
City of Hackensack
65 Central Avenue
Hackensack, NJ 07601
Phone: (201) 646-3940
Telecopier: (201) 457-1466
Email: dkarlsson@hackensack.org

**WITH A COPY TO THE
COURT MASTER:**

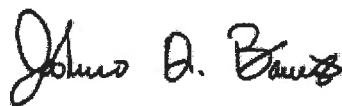
Mary Beth Lonergan, PP/AICP
Clarke, Caton, Hintz
100 Barrack Street
Trenton, NJ 08608-2008
Phone: (609) 477-7309
Telecopier: (609) 883-4044
Email: mblonergan@cchnj.com

In the event any of the individuals identified above has a successor, the individual identified shall name the successor and notify all others identified of their successor.

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

Witness/Attest:

FAIR SHARE HOUSING CENTER:



By:



Adam M. Gordon, Esq.
On Behalf of Fair Share Housing Center

Dated: August 14, 2020

Witness/Attest:

CITY OF HACKENSACK:



By:



John P. Labrosse, Jr., Mayor
On Behalf of the City of Hackensack

Dated: 9/10, 2020

EXHIBIT A



1/2 inch = 400 feet

DMR
ARCHITECTS

INCLUSIONARY OVERLAY ZONE

IO-1A Zone District

Essex Street & Hudson Street

Overview Map





1 inch = 225 feet

DMR
ARCHITECTS

INCLUSIONARY OVERLAY ZONE

IO-1C Zone District

Railroad Avenue

Overview Map

EXHIBIT B: 2020 INCOME LIMITS

2020 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - April 24, 2020

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on AHPNJ.org

	1 Person	*1.5 Person	2 Person	*3 Person	*4.5 Person	4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase Rents*** Selling****	Regional Asset Limit*****
Region 3 Bergen, Hudson, Passaic and Sussex	Median \$52,150	\$71,964	\$76,761	\$86,357	\$95,952	\$99,750	\$103,628	\$111,304	\$118,980	\$126,656	1.9%	\$185,539
Region 2 Essex, Morris, Union and Warren	Median \$73,857	\$79,132	\$84,408	\$94,959	\$105,510	\$109,730	\$113,951	\$122,391	\$130,832	\$139,273	1.9%	\$202,419
Region 3 Hudson, Madison and Somerset	Median \$48,650	\$69,625	\$66,600	\$107,550	\$119,500	\$124,280	\$129,060	\$138,620	\$148,180	\$157,740	1.9%	\$227,546
Region 4 Mercer, Morris and Ocean	Median \$76,469	\$81,931	\$87,393	\$98,317	\$109,242	\$113,611	\$117,981	\$126,720	\$135,460	\$144,199	1.9%	\$205,485
Region 5 Burlington, Camden and Gloucester	Median \$67,530	\$72,450	\$77,280	\$86,940	\$96,600	\$100,464	\$104,328	\$112,056	\$119,784	\$127,512	1.9%	\$179,028
Region 6 Atlantic, Cape May, Cumberland and Salem	Median \$45,966	\$49,250	\$52,533	\$59,100	\$65,666	\$68,233	\$70,919	\$76,173	\$81,426	\$86,679	1.9%	\$153,730

Income limits are based on 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-25.4(a).

** This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3 (Consumer price index for All Urban Consumers (CPI-U): Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, 2017, 2018 or 2019 because of the lack of authority to do so, may increase rent by up to the applicable combined percentage including 2020 of 9.0% whichever is less in accordance with N.J.A.C. 5:97-9.3(c). In no case can rent for any particular apartment be increased more than one time per year.

*** This column is used for calculating the pricing for rental increases for units (as previously calculated under N.J.A.C. 5:97-9.3). 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.

Low income tax credit developments may increase based on the low income tax credit regulations.

**** The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.1(b)(3).

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Von Rudenberg						X	
Deputy Mayor Canestrino	X		X				
Deputy Mayor Sims		X	X				
Battaglia			X				
Mayor Labrosse			X				

CITY OF HACKENSACK

RESOLUTION NO. 301-20

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF HACKENSACK, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, AUTHORIZING THE SETTLEMENT AGREEMENT BETWEEN THE CITY OF HACKENSACK AND FAIR SHARE HOUSING CENTER

WHEREAS, in compliance with the New Jersey Supreme court's decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on or about June 15, 2015, the City filed an action with the Bergen County Superior Court of New Jersey, entitled In the Matter of the Application of the City of Hackensack, County of Bergen, Docket No. BER-L-5731-15, seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan in addition to related reliefs; AND

WHEREAS, the City of Hackensack and the Fair Share Housing Center have reached a settlement to resolve the pending litigation, a copy of the Settlement Agreement is incorporated herein as if set forth at length; and

WHEREAS, the City of Hackensack Mayor and Council members reviewed the proposed Settlement Agreement, find the settlement to be in the best interest of the City of Hackensack, and recommend that same be accepted and executed.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council members of the City of Hackensack, County of Bergen, State of New Jersey, that the settlement is approved and authorizes the Mayor to execute same; and the City Attorney and the Special Affordable Housing Counsel are authorized to execute any agreements, releases or documents to be filed with the Court and take all actions reasonable and necessary to secure an Order approving the

Settlement Agreement; and work towards securing judicial approval of the City's Fair Share Plan.

BE IT RESOLVED, that the City hereby authorizes its professionals to take any all actions reasonable and necessary to secure a Final Round 3 Judgment of Compliance and Repose to maintain the City's immunity from any Mount Laurel lawsuits.

**CERTIFIED TO BE A TRUE COPY OF THE RESOLUTION PASSED AT
THE CITY COUNCIL MEETING OF THE CITY OF HACKENSACK
HELD ON AUGUST 18, 2020**



DEBORAH KARLSSON, CITY CLERK

APPENDIX D.2

AMENDED SETTLEMENT AGREEMENT BETWEEN FAIR SHARE HOUSING CENTER AND THE CITY
OF HACKENSACK, DATED NOVEMBER 9, 2021.

Council Member	Intro	Second	Yes	No	Abstain	Absent	Recused
Von Rudenborg			X				
Deputy Mayor Canestrino	X		X				
Battaglia		X	X				
Carroll			X				
Mayor Labrosse			X				

CITY OF HACKENSACK

RESOLUTION NO. 452-21

RESOLUTION AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO THE SEPTEMBER 10, 2020 SETTLEMENT AGREEMENT BETWEEN THE CITY OF HACKENSACK AND FAIR SHARE HOUSING CENTER

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015)(Mount Laurel IV), on June 12, 2015, the City of Hackensack (hereinafter “Hackensack” or the “City”) filed a Declaratory Judgment Complaint in the Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”), to be amended as necessary, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, the City simultaneously sought, and ultimately secured, a protective order providing Hackensack immunity from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan, which is still in full force and effect; and

WHEREAS, with assistance from the Court Master, the City and Fair Share Housing Center (hereinafter “FSHC”) engaged in good faith negotiations, which resulted in the entering into of a Settlement Agreement between the City and FSHC on September 10, 2020 (hereinafter “FSHC Settlement Agreement”); and

WHEREAS, a Fairness Hearing was held on October 22, 2020, during which the FSHC Settlement Agreement was approved, and said approval was memorialized by an Order entered by the Court on November 5, 2020; and

WHEREAS, FSHC and the City's professionals have negotiated a First Amendment to the September 10, 2020 Settlement Agreement between the City of Hackensack and Fair Share Housing Center ("First Amendment to the FSHC Settlement Agreement"), which is attached hereto as Exhibit A, to implement certain changes that will also be made to the City's Housing Element and Fair Share Plan; and

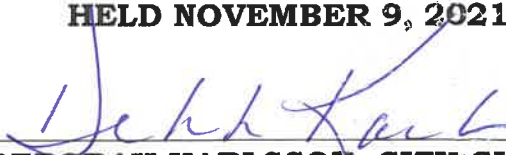
WHEREAS, in light of the above, the City Council finds that it is in the best interest of the City of Hackensack to execute the attached First Amendment to the FSHC Settlement Agreement, and to take various other actions delineated below, which will ultimately result in approval of the City's Fair Share Plan which, in turn, will maintain the City's immunity from all Mount Laurel lawsuits through July 2, 2025.

NOW, THEREFORE, BE IT RESOLVED on this 9th day of November, 2021, by the Council of the City of Hackensack, County of Bergen, State of New Jersey, as follows:

1. The City Council hereby authorizes and directs the Mayor of Hackensack City to execute the First Amendment to the FSHC Settlement Agreement in substantially the form attached hereto as Exhibit A.

2. The City Council hereby directs its Affordable Housing Counsel to file the fully executed First Amendment to the FSHC Settlement Agreement with the Court, along with the original FSHC Settlement Agreement, for review and approval at a duly noticed combined Fairness and Compliance Hearing.

**CERTIFIED TO BE A TRUE COPY OF THE RESOLUTION PASSED AT
THE CITY COUNCIL MEETING OF THE CITY OF HACKENSACK
HELD NOVEMBER 9, 2021**


DEBORAH KARLSSON, CITY CLERK

In the Matter of the City of Hackensack, County of Bergen, Docket No. BER-L-5731-15

FIRST AMENDMENT TO THE SEPTEMBER 10, 2020 SETTLEMENT AGREEMENT BETWEEN THE CITY OF HACKENSACK AND FAIR SHARE HOUSING CENTER.

This First Amendment to the September 10, 2020 Settlement Agreement between the City of Hackensack and Fair Share Housing Center (hereinafter the "First Amendment") is entered into this ____ day of _____, 2021, by and between the City of Hackensack, County of Bergen, Declaratory Plaintiff in the above-captioned matter, which has an address of 65 Central Avenue, Hackensack, New Jersey 07601 (hereinafter the "City" or "Hackensack"); and Fair Share Housing Center, which has an address of 510 Park Boulevard, Cherry Hill, New Jersey 08002 (hereinafter "FSHC").

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), the City filed the above-captioned matter on June 15, 2015 seeking, among other things, a judicial declaration that its amended Housing Element and Fair Share Plan (hereinafter "Fair Share Plan") satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the Mount Laurel doctrine; and

WHEREAS, the City simultaneously sought, and ultimately secured, an Order protecting Hackensack from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan, which Order is still in full force and effect today; and

WHEREAS, with the assistance of the Court-Appointed Master, Mary Beth Lonergan, PP, AICP (hereinafter "the Court Master"), the City and FSHC entered into a Settlement Agreement dated September 10, 2020 (hereinafter the "FSHC Settlement Agreement"), which is attached hereto as Exhibit A, and said FSHC Settlement Agreement was thereafter approved by a Court Order entered on November 5, 2020, after a properly noticed Fairness Hearing was held on October 22, 2020; and

WHEREAS, prior to the scheduled Compliance Hearing in this matter, which was to take place on March 3, 2021, the developer withdrew its project at the "Arena Diner" site, thereby necessitating an adjournment of the Compliance Hearing to September 14, 2021, which will be adjourned to a date in the future mutually agreed to by the parties and Court Master; and

WHEREAS, since the adjournment of the March 2021 Compliance Hearing, the City adopted a Redevelopment Plan for Lot T (Block 305, Lot 2), which includes a set-aside of affordable housing units that will contribute to satisfying the City's Prior Round obligation; and

WHEREAS, the City's Affordable Housing Plan will be amended to satisfy these changes, as well as several other changes to existing affordable housing projects included in the City's Fair Share Plan; and

WHEREAS, the City and FSHC have agreed that the proposed changes to the City's Affordable Housing Plan are fair and reasonable to very-low-, low-, and moderate-income households; and

WHEREAS, in order to implement the proposed changes, in addition to amending the City's Affordable Housing Plan, it is also necessary to amend the FSHC Settlement Agreement accordingly, and this First Amendment to the FSHC Settlement Agreement serves that purpose.

NOW, THEREFORE, THE CITY OF HACKENSACK AND FSHC AGREE AS FOLLOWS:

1. Paragraph 4.a), on page 2 of the 2020 FSHC Settlement Agreement, which is attached hereto as Exhibit A, is hereby replaced with the following:

a) The Hackensack Housing Authority has rehabilitated units in the following developments, and the Bergen County Home Improvement Program has rehabilitated the following individual units:

Project	Total Units	COAH Eligible Units*	Major Systems Upgraded	Total Expended Since 2010	Average Cost Per Unit
Barsalona Court (HHA)	50	48	Sewer line replacement HVAC – in-unit heating	\$386,738.62	\$8,407.36
Harry Berkie Gardens (HHA)	100	98	Generator Elevators Kitchen Cabinets	\$1,258,960.83	\$12,589.61
Oratam Court (HHA)	144	133	Roof Common area HVAC Sidewalk handrails Pedestrian concrete/ driveways/parking Building envelop, caulking sealant	\$6,668,767.37	\$46,310.88
Ostrowski Court (HHA)	50	46	Roof	\$1,275,457.53	\$25,509.15
Widnall Towers (HHA)	100	100	Site work, carpet, elevators, energy update Kitchen cabinets	\$706,805.71	\$7,068.06
70 Cedar Ave (County)	2	2	To be provided		
83 Linden Street (County)	1	1	To be provided		
135 Ricardo Pl (County)	1	1	To be provided		
73 Vanderbeek (County)	1	1	To be provided		
Total Units Rehabilitated Since 2010	449	430			
Balance of Rehabilitation Obligation		152			

*Due to HUD income standards v. Region 1 income standards

2. Paragraph 5, on pages 3 and 4 of the 2020 FSHC Settlement Agreement is hereby replaced as follows:

Satisfaction of Prior Round Obligation: Hackensack has a 201-unit Prior Round obligation, and will satisfy that obligation as follows:

Housing Type	Project/Address	Year Built	Units	Rental Bonus	Total Credits
Family For-Sale	Clinton Terrace Condos	1994	22	0	22
Family For-Sale	Pulaski Place Condos	1982	4	0	4
Family For-Sale	Franklin Garden Condos	1984	2	0	2
Senior Rental	Patrick DiZenzo Court	1982	50*	0	50
Supportive/Special Needs	AAH Bergen County 266 Spring Valley Avenue (Group Home)	1995	3		3
Supportive/Special Needs	Advance Housing 279 Clark Street (Group Home)	1999	2		2
Supportive/Special Needs	Advance Housing 10 Orchid Street (Group Home)	1999	2		2
Supportive/Special Needs	Advance Housing 451 Heath Place (Group Home)	1999	2		2
Supportive/Special Needs	Bergen & Passaic ARC (Group Home)	1980	4	0	4
Supportive/Special Needs	Comprehensive Behavioral Healthcare 298 Jackson Street	1988	7		7
Supportive/Special Needs	Community Action for Independent Living 155 Poor Street (Group Home)	1996	5		5
Supportive/Special Needs	NJ ARC Bergen-Passaic Unit 279 Lookout Avenue	1980	6	0	6
Inclusionary Family Rental (Proposed)	Lot T Redevelopment Plan (Block 305, Lot 2)	Proposed	60	51**	111
TOTAL			169	51**	220

* Maximum 25% cap on age-restricted units

** 25% Rental bonus cap

In order to receive credit for 50 of the 59 units from the Patrick DiZenzo Court project toward its Prior Round obligation (the 9 excess credits being above the 25% senior cap), , on August 17, 2021 the City entered into an agreement with the Hackensack Housing Authority (HHA) to remove the "residency preference" from its affirmative marketing and deed restriction, if applicable, and the HHA will commence with affirmatively marketing the units to very-low, low- and moderate-income households within the region with the first vacancy to occur after October 22, 2022.

The vast majority of the City's Prior Round affordable housing credits are completed, existing affordable housing units. The proposed Lot T Redevelopment Plan is discussed in detail in new Paragraph 6A added below. In addition, the City may consider other affordable housing production efforts as discussed in new Paragraph 6B below.

3. Paragraph 6, on page 4 of the 2020 FSHC Settlement Agreement is hereby replaced with the following:

6A. INCLUSIONARY REDEVELOPMENT

Lot T (Block 305, Lot 2) Redevelopment Plan: The City has adopted a Redevelopment Plan for the parcel(s) known as "Lot T" which will include a minimum of 60 affordable family rental units or 20% of the total number of residential units, whichever is greater.

- a) Prior to the Compliance Hearing, the City shall revise the Redevelopment Plan for Lot T and enter into a Redevelopment Agreement with a Redeveloper for this project, which will include all income and bedroom distribution requirements pursuant to the Fair Housing Act, COAH Regulations, and UHAC requirements, including that thirteen percent (13%) of the total number of affordable units shall be affordable to very-low-income households, earning no more than 30% of median income for the housing region. Accordingly, 50% of the total number of affordable units in the project shall be affordable to moderate-income households, 37% shall be affordable to low-income households, and 13% shall be affordable to very-low-income households. Bedroom distributions shall be representative throughout the income levels. Should the Redevelopment Agreement not be executed prior to the Compliance Hearing in this matter, the City shall have submitted the proposed language set forth above to FSHC and the Court Master for approval prior to the 45-day notice period commencing for the Compliance Hearing.
- b) Hackensack shall ensure and require that all affordable units are subject to affordability controls of at least 30 years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very low income shall be defined as at or below 30 percent of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the City, in its sole discretion, takes action to extend or release the unit from such controls.
- c) Hackensack shall ensure and require that all affordable units are affirmatively marketed pursuant to paragraph 13 of the FSHC Settlement Agreement and applicable law, including posting of all affordable units on the online New Jersey Housing Resource Center website.

6B. MUNICIPALLY SPONSORED PROJECTS

- a) The City of Hackensack is considering, but is not required to implement, the following 100% affordable, family rental projects to satisfy its Prior Round obligation. Any units in excess of the number of units needed to satisfy its 201-unit Prior Round obligation will be considered surplus that can be applied against a future housing cycle. The proposed projects are in varying stages of completeness, due to the impact of the SARS-COV2 pandemic and resulting State of Emergency. The City, in its discretion, will partner with a developer on any, all, or none of the proposed projects listed below, or has the option to exercise its powers related to its inclusionary overlay zones in Paragraph 7 of the 2020 Settlement Agreement.
- i. **251 West Railroad Avenue, Block 356, Lot 1:** This project is proposed to be a maximum of 25 affordable family rental units on this City-owned parcel. Should the City choose to develop this project, it will amend its MOU with Greater Bergen Community Action and support any application for funding, beginning in 2022. If the project does not receive funding by 2024, the City will remove its support from the project.
 - ii. **Hackensack Housing Authority (HHA):** the City and the HHA have entered into an agreement where the City will assist the HHA in determining if any City-owned land can be developed into a 100% affordable housing project of up to 60 units. This agreement also removes the "residency preference" on the DiZenno Court units beginning with the first vacancy after October 22, 2022. The City will explore opportunities with the HHA for the development on City-owned land of a municipally-sponsored project of up to 60 units that is creditworthy in accordance with COAH and UHAC regulations and income guidelines. Should the City and the HHA agree upon a proposed project, the City will enter into a Memorandum of Understanding (MOU) with the HHA in support of the project. Once an MOU is signed, the City will support the project's application for 9% Low Income Housing Tax Credits (LIHTC).
 - iii. **Housing Authority of Bergen County (HABC):** HABC is proposing a mixed-use, 100% affordable project along Hudson Street, the purchase of the land for which, as of the date of this Amendment, continues to be in its due diligence period. Due to significant delays from the pandemic, this project is not ready for a tax credit application at this time. Should the City choose to support this project, it will enter into a Memorandum of Understanding with HABC and support the project's application for 9% LIHTC tax credits for at least two funding cycles.
 - iv. **"Arena Diner" Project by Hampshire Properties:** [removed in its entirety].
- b) In accordance with N.J.A.C. 5:93-5.5, the City recognizes that it must provide evidence that the municipality has adequate and stable funding for any non-inclusionary affordable housing developments. The municipality is required to provide a pro forma of both total development costs and sources of funds and documentation of the funding available to the municipality and/or project sponsor,

and any applications still pending. In the case where an application for outside funding is still pending, the municipality shall provide a stable alternative source in the event that the funding request is not approved. The City meets this obligation as follows: the City intends to fund a project with nine percent (9%) tax credits, if such funding is applicable to the particular project, and will adopt a resolution of intent to fund for any shortfall associated with the project. In the event that none of the projects specified above are able to secure nine percent (9%) tax credits within the parameters set forth above, the City may utilize other available funds, including four percent (4%) tax credits, alternative funding sources, and bonding for the project(s) that have not secured funding, or secure redevelopment agreements in accordance with the terms of paragraph 7 of the 2020 Settlement Agreement.

- c) In accordance with N.J.A.C. 5:93-5.5, for non-inclusionary developments, a construction or implementation schedule, or timetable, shall be submitted for each step in the development process, including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, selection of a contractor and construction. The municipality shall indicate the entity responsible for undertaking and monitoring the construction and overall development activity. The City will chose a project and developer of that project, and will provide a proposed Construction Schedule and Pro Forma for the proposed project.

4. On November 5, 2020, following a duly-noticed Fairness Hearing, the Honorable Gregg A. Padovano, J.S.C. issued an Order Approving Settlement between the City and FSHC. In light of this First Amendment, Hackensack and FSHC agree to request that the Court conduct review and approval of this First Amendment and the new compliance mechanisms identified herein at either a joint Fairness Hearing and Compliance Hearing, or at a separate Fairness Hearing, to be followed by a Compliance Hearing at a Court-ordered date in the future following the Fairness Hearing. The City shall present its planner as a witness at the hearing.

5. All other terms and provisions set forth in the FSHC Settlement Agreement and not expressly amended herein shall remain unchanged and are in full force and effect as previously approved by the Court.

6. The City and FSHC agree to defend this First Amendment and the FSHC Settlement Agreement, and all action taken in compliance thereunder, on appeal including in proceedings before the Superior Court, Appellate Division, and the New Jersey Supreme Court. The City agrees to continue to implement the terms unless and until an appeal of the Trial Court's approval is successful, at which point the Parties reserve their right to return to the *status quo ante*. In this regard, the City and FSHC acknowledge that the Parties have entered into this Agreement to settle the litigation and that each is free to take such position as it deems appropriate should the matter return to the *status quo ante*.

7. This First Amendment and the FSHC Settlement Agreement may be enforced by the City or FSHC through a motion to enforce litigant's rights or a separate action filed in the Superior Court, Bergen County. If FSHC determines that such action is necessary, the City consents to the entry of an order providing FSHC party status as an intervenor solely for purposes of its motion to enforce litigant's rights.

8. Unless otherwise specified, it is intended that the provisions of this First Amendment are to be severable. The validity of any article, section, clause, or provision of this

First Amendment shall not affect the validity of the remaining articles, sections, clauses, or provisions hereof or the FSHC Settlement Agreement.

9. This First Amendment shall be governed and construed by the laws of the State of New Jersey.

10. This First Amendment may not be modified, amended, or altered in any way except by a writing signed by both the City and FSHC.

11. This First Amendment may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same agreement.

12. The City and FSHC acknowledge that each has entered into this First Amendment on its own volition without coercion or duress after consulting with its counsel, that each person to sign this First Amendment is the proper person and possesses the authority to sign the First Amendment, that this First Amendment and the 2020 FSHC Settlement Agreement contain the entire understanding of the City and FSHC and that there are no representations, warranties, covenants or undertakings other than those expressly set forth in writing therein.

13. The City and FSHC acknowledge that this First Amendment was not drafted by the City or FSHC, but was drafted, negotiated, and reviewed by representatives of the City and FSHC and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. The City and FSHC each represent that: (a) it has been represented by counsel in connection with negotiating the terms of this First Amendment; and (b) it has conferred due authority for execution of this First Amendment upon the persons executing it.

14. The First Amendment and the 2020 FSHC Settlement Agreement constitute the entire agreement between the City and FSHC and supersede all prior oral and written agreements between the City and FSHC with respect to the subject matter hereof except as otherwise provided herein.

15. Anything herein contained to the contrary notwithstanding, the effective date of this First Amendment shall be the date upon which representatives of the City and FSHC have executed and delivered this First Amendment.

16. All notices required under this First Amendment ("Notice[s]") shall be written and shall be served upon the City and FSHC by certified mail, return receipt requested, or by a recognized overnight delivery service or by a personal courier. In addition, where feasible (for example, transmittals of less than 50 pages), Notices shall be served by facsimile or e-mail. All Notices shall be deemed received upon date of delivery. Delivery shall be effected to all interested parties and as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

TO FSHC:

Adam Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
E-mail: adamgordon@fairsharehousing.org

TO THE CITY:

Nancy L. Holm, Esq.
Surenian, Edwards & Nolan, LLC
311 Broadway, Unit A
Point Pleasant Beach, NJ 08742
Email: nlh@surenian.com

**WITH A COPY TO THE
CITY CLERK:**

Deborah Karlsson, City Clerk
City of Hackensack
65 Central Avenue
Hackensack, NJ 07601
Email: dkarlsson@hackensack.org

In the event any of the individuals identified above has a successor, the individual identified shall name the successor and notify all others identified of their successor.

THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

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

Witness/Attest:

FAIR SHARE HOUSING CENTER:



By: 

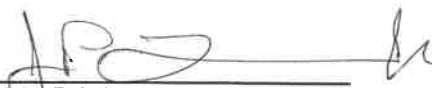
Adam Gordon, Esq.
On Behalf of Fair Share Housing Center

Dated: 11/8/21, 2021

Witness/Attest:

CITY OF HACKENSACK:



By: 

John P. Labrosse, Mayor
On Behalf of the City of Hackensack

Dated: 11/10, 2021

APPENDIX D.3

SECOND AMENDMENT TO THE SETTLEMENT AGREEMENT BETWEEN FAIR SHARE HOUSING
CENTER AND THE CITY OF HACKENSACK, DATED MARCH 12, 2024.

In the Matter of the City of Hackensack, County of Bergen, Docket No. BER-L-5731-15

SECOND AMENDMENT TO THE SEPTEMBER 10, 2020 SETTLEMENT AGREEMENT BETWEEN THE CITY OF HACKENSACK AND FAIR SHARE HOUSING CENTER.

This Second Amendment to the September 10, 2020 Settlement Agreement between the City of Hackensack and Fair Share Housing Center (hereinafter the "Second Amendment") is entered into this 22nd day of February, 2024, by and between the City of Hackensack, County of Bergen, Declaratory Plaintiff in the above-captioned matter, which has an address of 65 Central Avenue, Hackensack, New Jersey 07601 (hereinafter the "City" or "Hackensack"); and Fair Share Housing Center, which has an address of 510 Park Boulevard, Cherry Hill, New Jersey 08002 (hereinafter "FSHC").

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), the City filed the above-captioned matter on June 15, 2015 seeking, among other things, a judicial declaration that its amended Housing Element and Fair Share Plan (hereinafter "Fair Share Plan") satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the Mount Laurel doctrine; and

WHEREAS, the City simultaneously sought, and ultimately secured, an Order protecting Hackensack from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan, which Order is still in full force and effect today; and

WHEREAS, with the assistance of the Court-Appointed Master, Mary Beth Lonergan, PP, AICP (hereinafter "the Court Master"), the City and FSHC entered into a Settlement Agreement dated September 10, 2020 (hereinafter the "FSHC Settlement Agreement"), which is attached hereto as Exhibit A, and said FSHC Settlement Agreement was thereafter approved by a Court Order entered on November 5, 2020, after a properly noticed Fairness Hearing was held on October 22, 2020; and

WHEREAS, between the Fairness Hearing and Compliance Hearing dates, the City and FSHC amended the FSHC Settlement Agreement (hereinafter "First Amendment"), which was approved by the Court at the duly-noticed March 29, 2022 combined Fairness and Compliance Hearing, and on April 22, 2022, the Court issued a Conditional Judgment of Compliance and Repose (hereinafter "Conditional JOR"); and

WHEREAS, since the Court entered the Conditional JOR, the City worked with the Hackensack Housing Authority as was required by both the FSHC Settlement Agreement and the First Amendment, and the HHA has proposed a project that can now be incorporated into the City's Housing Element and Fair Share Plan, and the NRP Group also came forward with a 100% affordable, family rental project on 111 Essex Street within the City's inclusionary overlay zone; and

WHEREAS, in order for both projects to pursue funding from the NJHMFA, both projects must be included in a Court-approved settlement agreement between the City and FSHC; and

WHEREAS, the City's Affordable Housing Plan will be amended to satisfy these changes, as well as several other changes to existing affordable housing projects included in the City's Fair Share Plan; and

WHEREAS, the City and FSHC have agreed that the proposed changes to the City's Affordable Housing Plan are fair and reasonable to very-low-, low-, and moderate-income households; and

WHEREAS, in order to implement the proposed changes, in addition to amending the City's Affordable Housing Plan, it is also necessary to amend the FSHC Settlement Agreement, as amended by the First Amendment accordingly, and this Second Amendment to the FSHC Settlement Agreement serves that purpose.

NOW, THEREFORE, THE CITY OF HACKENSACK AND FSHC AGREE AS FOLLOWS:

1. Paragraph 4, on pages 2 and 3 of the 2020 FSHC Settlement Agreement, as previously amended, is hereby replaced as follows:

- a) The Hackensack Housing Authority has rehabilitated units in the following developments, and the Bergen County Home Improvement Program has rehabilitated the following individual units:

Project	Total Units	COAH Eligible Units*	Major Systems Upgraded	Total Expended Since 2010	Average Cost Per Unit
Barsalona Court (HHA)	50	48	Sewer line replacement HVAC – in-unit heating	\$386,738.62	\$8,407.36
Harry Berkie Gardens (HHA)	100	98	Generator Elevators Kitchen Cabinets	\$1,258,960.83	\$12,589.61
Oratam Court (HHA)	144	133	Roof Common area HVAC Sidewalk handrails Pedestrian concrete/ driveways/parking Building envelop, caulking sealant	\$6,668,767.37	\$46,310.88
Ostrowski Court (HHA)	50	46	Roof	\$1,275,457.53	\$25,509.15
Widnall Towers (HHA)	100	100	Site work, carpet, elevators, energy update Kitchen cabinets	\$706,805.71	\$7,068.06
70 Cedar Ave (County)	2	2	To be provided		
83 Linden Street (County)	1	1	To be provided		
135 Ricardo Pl (County)	1	1	To be provided		
73 Vanderbeek (County)	1	1	To be provided		

Project	Total Units	COAH Eligible Units*	Major Systems Upgraded	Total Expended Since 2010	Average Cost Per Unit
Total Units Rehabilitated Since 2010	449	430			
Balance of Rehabilitation Obligation		152			

*Due to HUD income standards v. Region 1 income standards

- b) The remainder of the rehabilitation obligation shall be satisfied partially by the construction of the Hackensack Housing Authority at 60 Kansas Street (see amendments to Paragraph 6B of the FSHC Settlement Agreement below), and the remaining obligation shall be satisfied by the City's continued participation in the Bergen County Home Improvement Program.
- c) With the proposed HHA project, the balance of the City's rehabilitation obligation is 92 units:

Project	Total Units	COAH Eligible Units*
Barsalona Court (HHA)	50	48
Harry Berkie Gardens (HHA)	100	98
Oratam Court (HHA)	144	133
Ostrowski Court (HHA)	50	46
Widnall Towers (HHA)	100	100
70 Cedar Ave (County)	2	2
83 Linden Street (County)	1	1
135 Ricardo Pl (County)	1	1
73 Vanderbeek (County)	1	1
60 Kansas Street (Proposed)	30	30
Total Units Rehabilitated Since 2010	509	460
Balance of Rehabilitation Obligation		92

2. Paragraph 5, on pages 3 and 4 of the 2020 FSHC Settlement Agreement is hereby replaced as follows:

Satisfaction of Prior Round Obligation: Hackensack has a 201-unit Prior Round obligation, and will satisfy that obligation as follows:

Housing Type	Project/Address	Year Built	Units	Rental Bonus	Total Credits
Family For-Sale	Clinton Terrace Condos	1994	22	0	22
Family For-Sale	Pulaski Place Condos	1982	4	0	4
Family For-Sale	Franklin Garden Condos	1984	2	0	2
Senior Rental	Patrick DiZenzo Court	1982	50*	0	50
Supportive/Special Needs	AAH Bergen County 266 Spring Valley Avenue (Group Home)	1995	3	0	3
Supportive/Special Needs	Advance Housing 279 Clark Street (Group Home)	1999	2	0	2
Supportive/Special Needs	Advance Housing 10 Orchid Street (Group Home)	1999	2	0	2
Supportive/Special Needs	Advance Housing 451 Heath Place (Group Home)	1999	2	0	2
Supportive/Special Needs	Bergen & Passaic ARC (Group Home)	1980	4	0	4
Supportive/Special Needs	Comprehensive Behavioral Healthcare 298 Jackson Street	1988	7	0	7
Supportive/Special Needs	Community Action for Independent Living 155 Poor Street (Group Home)	1996	5	0	5
Supportive/Special Needs	NJ ARC Bergen-Passaic Unit 279 Lookout Avenue	1980	6	0	6
100% affordable family rental (Proposed)	NRP Group 111 Essex Street (Block 76, Lots 45 & 7.03)	Proposed	68		68
Inclusionary Family Rental (Proposed)	Lot T Redevelopment Plan (Block 305, Lot 2)	Proposed	60	51**	111
TOTAL			234	51**	288

Housing Type	Project/Address	Year Built	Units	Rental Bonus	Total Credits
Projected Surplus					87

* Maximum 25% cap on age-restricted units

** 25% Rental bonus cap

In order to receive credit for 50 of the 59 units from the Patrick DiZenzo Court project toward its Prior Round obligation (the 9 excess credits being above the 25% senior cap). On August 17, 2021 the City entered into an agreement with the Hackensack Housing Authority (HHA) to remove the “residency preference” from its affirmative marketing and deed restriction, if applicable, and the HHA will commence with affirmatively marketing the units to very-low, low- and moderate-income households within the region with the first vacancy to occur after October 22, 2022.

3. The vast majority of the City’s Prior Round affordable housing credits are completed, existing affordable housing units. The proposed Lot T Redevelopment Plan is discussed in detail in Paragraph 6A of the First Amendment. Paragraph 6A remains unchanged by this amendment. In addition, the City may consider other affordable housing production efforts as discussed in new Paragraph 6B below.

4. Paragraph 3, on page 4 of the 2021 First Amended Settlement Agreement is hereby amended as follows:

6B. MUNICIPALLY SPONSORED PROJECTS

- a) The City of Hackensack is considering, but is not required to implement, the following 100% affordable, family rental projects to satisfy its Prior Round obligation. Any units in excess of the number of units needed to satisfy its 201-unit Prior Round obligation will be considered surplus that can be applied against a future housing cycle. The proposed projects are in varying stages of completeness, due to the impact of the SARS-COV2 pandemic and resulting State of Emergency. The City, in its discretion, will partner with a developer on any, all, or none of the proposed projects listed below, or has the option to exercise its powers related to its inclusionary overlay zones in Paragraph 7 of the 2020 Settlement Agreement.
 - i. **251 West Railroad Avenue, Block 356, Lot 1:** This project is proposed to be a maximum of 24 affordable family rental units on this City-owned parcel. The City has adopted a Redevelopment Plan for this project and is supporting Greater Bergen Community Action in their application for funding. If the project does not receive funding by July 1, 2026, the City will remove its support from the project.
 - ii. **Hackensack Housing Authority (HHA):** the City and the HHA have entered into an agreement where the City will assist the HHA in determining if any City-owned land can be developed into a 100% affordable housing project of up to 60 units. This agreement also removes the “residency preference” on 50 of the DiZenzo Court units beginning with the first vacancy after October 22, 2022. The City will explore opportunities with the HHA for the development on City-owned land of a municipally-sponsored project of up to 60 units that is creditworthy in accordance with COAH and

UHAC regulations and income guidelines. Should the City and the HHA agree upon a proposed project, the City will enter into a Memorandum of Understanding (MOU) with the HHA in support of the project. Once an MOU is signed, the City will support the project's application for 9% Low Income Housing Tax Credits (LIHTC).

1. **60 Kansas Street, (Block 66, Lot 17):** HHA is proposing a 30 unit, 100% affordable, age-restricted rental project on property it already owns, with a residency preference, that the City proposes to count toward its rehabilitation obligation. The City shall enter into an Agreement with HHA regarding the project and support the project's application for funding for at least two years of funding cycles.
 - iii. **Housing Authority of Bergen County (HABC) (Block 58, Lots 1.02, 3, 4, 5, 19.02, 36 and 39):** HABC is proposing a mixed-use, 100% affordable project along Hudson Street and Lodi Street, and is still in the process of acquiring an additional parcel for the project. Should the City choose to support this project, it will enter into a Memorandum of Understanding with HABC and support the project's application for 9% LIHTC tax credits for at least two years of funding cycles.
 - iv. **111 Essex Street & 142-44 Kansas Street by NRP Group (Block 76, Lot 45 & Lot 7.03):** NRP Group is proposing a 68-unit, 100% affordable, family rental project within the City's Inclusionary Overlay Zone at 111 Essex Street. The City is currently undergoing the Redevelopment process for this project, and will enter into a Redeveloper's Agreement with NRP Group and support NRP Group's funding applications for at least two years of funding cycles.
- b) In accordance with N.J.A.C. 5:93-5.5, the City recognizes that it must provide evidence that the municipality has adequate and stable funding for any non-inclusionary affordable housing developments. The municipality is required to provide a pro forma of both total development costs and sources of funds and documentation of the funding available to the municipality and/or project sponsor, and any applications still pending. In the case where an application for outside funding is still pending, the municipality shall provide a stable alternative source in the event that the funding request is not approved. The City meets this obligation as follows: the City intends to fund a project with nine percent (9%) tax credits, if such funding is applicable to the particular project, and will adopt a resolution of intent to fund for any shortfall associated with the project. In the event that none of the projects specified above are able to secure nine percent (9%) tax credits within the parameters set forth above, the City may utilize other available funds, including four percent (4%) tax credits, alternative funding sources, and bonding for the project(s) that have not secured funding, or secure redevelopment agreements in accordance with the terms of paragraph 7 of the 2020 Settlement Agreement.
- c) In accordance with N.J.A.C. 5:93-5.5, for non-inclusionary developments, a construction or implementation schedule, or timetable, shall be submitted for each step in the development process, including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, selection of a contractor and construction. The municipality shall indicate the entity responsible

for undertaking and monitoring the construction and overall development activity. The City will chose a project and developer of that project, and will provide a proposed Construction Schedule and Pro Forma for the proposed project.

5. On November 5, 2020, following a duly-noticed Fairness Hearing, the Honorable Gregg A. Padovano, J.S.C. issued an Order Approving Settlement between the City and FSHC. On April 22, 2022, Judge Padovano issued a Conditional JOR that approved the First Amended Settlement Agreement. In light of this Second Amendment, Hackensack and FSHC agree to request that the Court conduct review and approval of this Second Amendment and the new compliance mechanisms identified herein at either a joint Fairness Hearing and Compliance Hearing, or at a separate Fairness Hearing, to be followed by a Compliance Hearing at a Court-ordered date in the future following the Fairness Hearing. The City shall present its planner as a witness at the hearing.

6. All other terms and provisions set forth in the FSHC Settlement Agreement and First Amendment and not expressly amended herein shall remain unchanged and are in full force and effect as previously approved by the Court.

7. The City and FSHC agree to defend this Second Amendment, the First Amendment, and the original FSHC Settlement Agreement, and all action taken in compliance thereunder, on appeal including in proceedings before the Superior Court, Appellate Division, and the New Jersey Supreme Court. The City agrees to continue to implement the terms unless and until an appeal of the Trial Court's approval is successful, at which point the Parties reserve their right to return to the *status quo ante*. In this regard, the City and FSHC acknowledge that the Parties have entered into this Agreement to settle the litigation and that each is free to take such position as it deems appropriate should the matter return to the *status quo ante*.

8. This Second Amendment, the First Amendment and the original FSHC Settlement Agreement may be enforced by the City or FSHC through a motion to enforce litigant's rights or a separate action filed in the Superior Court, Bergen County. If FSHC determines that such action is necessary, the City consents to the entry of an order providing FSHC party status as an intervenor solely for purposes of its motion to enforce litigant's rights.

9. Unless otherwise specified, it is intended that the provisions of this Second Amendment are to be severable. The validity of any article, section, clause, or provision of this Second Amendment shall not affect the validity of the remaining articles, sections, clauses, or provisions hereof or of the First Amendment or the original FSHC Settlement Agreement.

10. This Second Amendment shall be governed and construed by the laws of the State of New Jersey.

11. This Second Amendment may not be modified, amended, or altered in any way except by a writing signed by both the City and FSHC.

12. This Second Amendment may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same agreement.

13. The City and FSHC acknowledge that each has entered into this Second Amendment on its own volition without coercion or duress after consulting with its counsel, that each person to sign this Second Amendment is the proper person and possesses the authority to sign the Second Amendment, that this Second Amendment, the First Amendment, and the

original 2020 FSHC Settlement Agreement contain the entire understanding of the City and FSHC and that there are no representations, warranties, covenants or undertakings other than those expressly set forth in writing therein.

14. The City and FSHC acknowledge that this Second Amendment was not drafted by the City or FSHC, but was drafted, negotiated, and reviewed by representatives of the City and FSHC and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. The City and FSHC each represent that: (a) it has been represented by counsel in connection with negotiating the terms of this First Amendment; and (b) it has conferred due authority for execution of this Second Amendment upon the persons executing it.

15. The Second Amendment, First Amendment, and the original 2020 FSHC Settlement Agreement constitute the entire agreement between the City and FSHC and supersede all prior oral and written agreements between the City and FSHC with respect to the subject matter hereof except as otherwise provided herein.

16. Anything herein contained to the contrary notwithstanding, the effective date of this Second Amendment shall be the date upon which representatives of the City and FSHC have executed and delivered this Second Amendment.

17. All notices required under this Second Amendment ("Notice[s]") shall be written and shall be served upon the City and FSHC by certified mail, return receipt requested, or by a recognized overnight delivery service or by a personal courier. In addition, where feasible (for example, transmittals of less than 50 pages), Notices shall be served by facsimile or e-mail. All Notices shall be deemed received upon date of delivery. Delivery shall be effected to all interested parties and as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

TO FSHC: Adam Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
E-mail: adamgordon@fairsharehousing.org

TO THE CITY: Nancy L. Holm, Esq.
Surenian, Edwards & Nolan, LLC
311 Broadway, Unit A
Point Pleasant Beach, NJ 08742
Email: nlh@surenian.com

WITH A COPY TO THE CITY CLERK: Deborah Karlsson, City Clerk
City of Hackensack
65 Central Avenue
Hackensack, NJ 07601
Email: dkarlsson@hackensack.org

In the event any of the individuals identified above has a successor, the individual identified shall name the successor and notify all others identified of their successor.


THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

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

Witness/Attest:

FAIR SHARE HOUSING CENTER:

Ashley J. Lee

By: 
Adam Gordon, Esq.
On Behalf of Fair Share Housing Center

Dated: March 12, 2024

Witness/Attest:

CITY OF HACKENSACK:

By: _____
John P. Labrosse, Mayor
On Behalf of the City of Hackensack

Dated: _____, 2024

APPENDIX E.1

NOVEMBER 5, 2020 FAIRNESS ORDER.

SURENIAN, EDWARDS & NOLAN LLC

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October 29, 2020

VIA ECOURTS

Honorable Gregg A. Padovano, J.S.C.

Superior Court of NJ, Bergen County
10 Main Street, Room 335
Hackensack, NJ 07630

**RE: In the Matter of the Application of the City of Hackensack
County of Bergen; Docket No.: BER-L-5731-15**

Dear Judge Padovano:

As Your Honor is aware, a Fairness Hearing was held in the above-referenced matter on October 22, 2020 at 10:00 a.m. Enclosed, please find a proposed order memorializing the Court's findings made during the Fairness Hearing, in which it approved a Settlement Agreement between the City of Hackensack and Fair Share Housing Center ("FSHC"). This form of order has been reviewed and approved by both the Court Master Mary Beth Lonergan, P.P., A.I.C.P., and Joshua Bauers, Esq. of FSHC, and is being submitted under the Five-Day Rule.

I thank Your Honor for your continued time and attention to this matter.

Respectfully submitted,

Nancy L. Holm

Nancy L. Holm, Esq.

NLH/rw

Enclosure

cc: Mary Beth Lonergan, PP/AICP (*via email*)
Steven Kleinman, Esq. (*via email*)
Joshua Bauers, Esq. (*via email*)
Albert Dib (*via email*)

SURENIAN, EDWARDS & NOLAN, LLC

Brielle Galleria

707 Union Avenue, Suite 301

Brielle, NJ 08730

(732) 612-3100

Attorneys for Declaratory Plaintiff, City of Hackensack

By: Jeffrey R. Surenian (Attorney ID: 024231983)

Nancy L. Holm (Attorney ID: 013442006)

**IN THE MATTER OF THE
APPLICATION OF THE CITY OF
HACKENSACK, COUNTY OF BERGEN**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
BERGEN COUNTY**

DOCKET NO.: BER-L-5731-15

CIVIL ACTION – MOUNT LAUREL

**ORDER OF FAIRNESS AND
PRELIMINARY ROUND 3
MOUNT LAUREL COMPLIANCE**

THIS MATTER having been opened to the Court by Surenian, Edwards & Nolan, LLC, on behalf of declaratory plaintiff, City of Hackensack (hereinafter “the City” or “Hackensack”) via a Declaratory Judgment Complaint filed on June 12, 2015 seeking approval of the City’s amended Round 3 Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”) in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mount Laurel IV”); and the Court having appointed Mary Beth Lonergan, P.P., A.I.C.P. as the Special Master (hereinafter the “Special Master”); and Fair Share Housing Center (“FSHC”) having participated in the City’s DJ Action as an “interested party;” and, on or around September 10, 2020 the City and FSHC having executed a Mount Laurel settlement agreement (“FSHC Agreement”), attached hereto as Exhibit A and incorporated by reference herein; and the FSHC Agreement having established the City’s fair share obligations and further having identified the framework of the City’s plan to satisfy same; and Honorable Gregg A. Padovano, J.S.C. having scheduled a Mount Laurel Fairness

Hearing for October 22, 2020 to determine whether the FSHC Agreement is fair and reasonable to the region's low- and moderate-income households; and the City having published notice of the Fairness Hearing in a newspaper of regional circulation and provided actual notice via certified mail to the Mount Laurel IV Service List, the City's Service List, and to the various affordable housing advocacy groups in the region, and posting the Notice on the City's website for public access; and an objection having been submitted on October 8, 2020 by members of the public identifying themselves as the WorkGroup of Hackensack; and the City responding to that objection on October 13, 2020; and, on October 14, 2020, Special Master Lonergan having issued a report which, among other things, recommended approval of the FSHC Agreement pursuant to the legal standard set forth in East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996); and, on October 22, 2020, the Court having conducted the duly-noticed Mount Laurel "Fairness Hearing;" and Special Master Lonergan having provided sworn testimony summarizing her October 14, 2020 Master's Report and recommended approval of the FSHC Agreement; and the Court having considered the testimony of Michael Mistretta, P.P., L.L.A., and the Court Master, Mary Beth Lonergan, P.P., A.I.C.P., taken during the Fairness Hearing, as well as the comments of counsel for the City, FSHC, and from members of the public representing the objector WorkGroup of Hackensack; and the Court having also reviewed all of the documents submitted into evidence; and the Court being satisfied that the FSHC Agreement is fair and reasonable to the region's very low-, low-, and moderate-income households; and for good cause having been shown:

It is hereby ordered on this _____ day of _____ 2020, as follows:

1. The City provided sufficient published and actual notice of the Fairness Hearing to the public and all known and potential interested parties.

2. Pursuant to the judicial standards set forth in East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), the FSHC Agreement is fair, reasonable, and adequately protects the interests of the region's very low, low and moderate income households, and the Court hereby approves the FSHC Agreement, attached hereto as Exhibit A.

3. Pursuant to the judicial standards set forth in East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), the FSHC Agreement is approved because it is fair, reasonable, and adequately protects the interests of the region's very low, low and moderate income households.

4. Per the FSHC Agreement, the City's Rehabilitation Obligation is five hundred and eighty-two (582); its Prior Round Obligation is two hundred and one (201); and its allocation for Round 3 inclusive of a gap obligation and a prospective need obligation for the 26-year period between 1999 and 2025 is zero (0), due to the City's status as a COAH-eligible Urban Aid Municipality per N.J.A.C. 5:93.

5. The City's proposed plan to address the obligations set forth in the preceding paragraph, as set forth in the FSHC Agreement, is preliminarily approved because it complies facially with the relevant Mount Laurel laws, principles, and policies.

6. In order to secure final approval, the City must adopt, endorse, and file an amended Round 3 Housing Element and Fair Share Plan and take all the relevant actions set forth in the Special Master's Report, dated October 14, 2020, no later than 120 days after the date of this Order.

7. FSHC and the City shall adhere to all other terms and conditions in the FSHC Agreement (Exhibit A), and all such terms and conditions are hereby incorporated by reference.

8. A duly-noticed Compliance Hearing is scheduled for _____, 2021 at _____ a.m./p.m. during which the trial judge will consider whether the City's amended

Round 3 Housing Element and Fair Share Plan creates a realistic opportunity for satisfaction of its fair share of housing that is affordable to the region's low- and moderate-income households.

9. The City and Planning Board's temporary immunity from all Mount Laurel lawsuits shall remain in effect through thirty (30) days after the scheduled Compliance Hearing date as may be extended by the Court.

10. Counsel for the City shall provide copies of this Order to the City's Service List within seven (7) days of receipt.

HON. GREGG A. PADOVANO, J.S.C.

APPENDIX E.2

CONDITIONAL JUDGEMENT OF COMPLIANCE AND REPOSE AND ORDER APPROVING THE
AMENDMENT TO THE SETTLEMENT AGREEMENT MEMORIALIZED BY THE 2020 FAIRNESS ORDER,
DATED APRIL 22, 2022.

SURENIAN, EDWARDS & NOLAN, LLC

311 Broadway, Suite A

Point Pleasant Beach, NJ 08742

(732) 612-3100

Attorneys for Declaratory Plaintiff, City of Hackensack

By: Jeffrey R. Surenian (Attorney ID: 024231983)

Nancy L. Holm (Attorney ID: 013442006)

FILED

APR 22 2022

GREGG A. PADOVANO, J.S.C.

**IN THE MATTER OF THE
APPLICATION OF THE CITY OF
HACKENSACK, COUNTY OF BERGEN**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY**

DOCKET NO.: BER-L-5731-15

CIVIL ACTION – MOUNT LAUREL

**CONDITIONAL JUDGMENT OF
COMPLIANCE AND REPOSE AND
ORDER APPROVING THE FIRST
AMENDMENT TO THE
SETTLEMENT AGREEMENT
BETWEEN THE CITY OF
HACKENSACK AND FAIR SHARE
HOUSING CENTER**

THIS MATTER having been opened to the Court by Surenian, Edwards & Nolan LLC, on behalf of declaratory plaintiff, City of Hackensack (hereinafter “the City” or “Hackensack”) via a Declaratory Judgment Complaint filed on June 12, 2015 to approve the City’s Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”) in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mount Laurel IV”); and the Court having granted the City immunity from Mount Laurel lawsuits from the time of the filing of the City’s Declaratory Judgment action (hereinafter “DJ Action”); and Mary Beth Lonergan, P.P., A.I.C.P. having been appointed as the Special Mount Laurel Court Master (hereinafter the “Court Master”) by Order dated September 21, 2015; and Fair Share Housing Center (“FSHC”) having intervened in the City’s DJ Action; and the City and FSHC having entered into a Settlement Agreement on September 10, 2020 (hereinafter the “FSHC Settlement Agreement”) (Exhibit A of Exhibit P-1);

and said FSHC Settlement Agreement having set agreed upon fair share obligations and how the City would satisfy same; and the FSHC Settlement Agreement having been approved during a Fairness Hearing held on October 22, 2020, which was memorialized by an Order entered by the Court on November 5, 2020; and the City having adopted a Housing Element and Fair Share Plan in December of 2020, but due to certain changes having to subsequently be made to certain components in the City's plan, the City and FSHC having had to amend the FSHC Settlement Agreement; and the City and FSHC having agreed upon a First Amendment to the FSHC Settlement Agreement (hereinafter "Amended FSHC Settlement Agreement") (Exhibit P-1), which was entered into on November 10, 2021; and the City and its Planning Board having prepared, adopted, and endorsed an amended Housing Element and Fair Share Plan (hereinafter "Fair Share Plan") (Exhibit P-2), and all supporting documentation in accordance with the FSHC Settlement Agreement, as amended; and a combined Fairness and Compliance Hearing having been ultimately scheduled for March 29, 2022 to consider approval of the City's Fair Share Plan and the Amended FSHC Settlement Agreement; and said Fair Share Plan and the Amended FSHC Settlement Agreement having been put on file for public review at City Hall forty-five (45) days prior to the scheduled combined Fairness and Compliance Hearing date of March 29, 2022; and counsel for the City having prepared a Notice Certification (Exhibit P-20), to document that proper notice of the combined Fairness and Compliance Hearing had been given; and the Fair Share Plan, as well as other additional documents, resolutions and ordinances having been submitted to the Court Master and FSHC for review; and no written objections to the Fair Share Plan or the Amended FSHC Settlement Agreement having been received; and the combined Fairness and Compliance Hearing having been held on March 29, 2022, during which Exhibits P-1 to P-27 were marked into evidence; and the Court having considered the testimony taken during the combined Fairness and Compliance Hearing, as well as the comments made by

counsel as well as the public; and the Court Master having recommended approval of the Amended FSHC Settlement Agreement, as well as the City's Fair Share Plan, both in her March 23, 2022 Court Master's Report (Exhibit P-21), and on the record during the combined Fairness and Compliance Hearing; and the Court having reviewed all of the documents submitted into evidence during the combined Fairness and Compliance Hearing; and good cause having been shown;

It is hereby ordered on this 22nd day of April, 2022, as follows:

1. Subject to the satisfaction of the Conditions in Paragraph 10 of this Order, the City of Hackensack Fair Share Plan (Exhibit P-2) is hereby approved and the City is granted a Judgment of Compliance and Repose as to its Rehabilitation Share, its Prior Round Obligation (1987-1999), and its Third Round Obligation (the last comprised of both the Gap (1999-2015) and the Prospective (2015-2025) Needs), pursuant to the Court approved Settlement Agreement entered into between the City and FSHC on September 10, 2020, as amended on November 10, 2021 (Exhibit P-1), the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) ("FHA"), the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.) ("UHAC"), applicable Council on Affordable Housing (hereinafter "COAH") substantive rules, and Mount Laurel case law, including the New Jersey Supreme Court's Mount Laurel IV decision.

2. The Court finds and determines pursuant to the judicial standards prescribed by the Appellate Division in East/West Venture v. Bor. Of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), and through analysis of the First Amendment to FSHC Settlement Agreement (Exhibit P-1), that said Amendment is fair, reasonable, and adequately protects the interests of very-low, low, and moderate-income households, and the Court hereby approves the First Amendment to the FSHC Settlement Agreement and all terms therein.

3. The City's Judgment of Compliance and Repose shall remain in effect for ten (10) years beginning on July 2, 2015 and ending on July 2, 2025, and during this ten (10) year period the City shall have repose from all Mount Laurel lawsuits, including, but not limited to, Builder's Remedy lawsuits.

4. As per the Settlement Agreement between the City and FSHC as amended, and as established in the City's Fair Share Plan, the City's Rehabilitation Obligation is 582, the City's Prior Round Obligation (1987-1999) is 201, and the City's Third Round Gap and Prospective Obligation (1999-2025) is 0.

5. Four hundred thirty (430) units of the City's 582-unit Rehabilitation Obligation have been rehabilitated through a combination of improvements made by the Hackensack Housing Authority ("HHA") to HUD-funded developments under its jurisdiction, as well as units rehabilitated by the Bergen County Home Improvement Program ("BCHIP"). Those rehabilitated units are accounted for as follows:

- a. 48 eligible units from Barsalona Court, 164 Beech Street, Block 231, Lot 21 (HHA);
- b. 98 eligible units from Harry Berkie Gardens, 60 Kansas Street, Block 66, Lot 17 (HHA);
- c. 133 eligible units from Oratam Court, 170 Sussex Street, Block 225, Lot 1 (HHA);
- d. 46 eligible units from Ostrowski Court, 230 Central Avenue, Block 225, Lot 1 (HHA);
- e. 100 eligible units from Widnall Towers, 65 First Street, Block 332, Lot 49(HHA);
- f. 2 units located at 70 Cedar Avenue, Block 567, Lot 1.01 (BCHIP);

- g. 1 unit located at 83 Linden Street, Block 429, Lot 24 (BCHIP); and
- h. 1 unit located at 135 Ricardo Place, Block 222.01, Lot 22 (BCHIP).
- i. 1 unit located at 73 Vanderbeck Place, Block 435, Lot 45 (BCHIP)

The remaining 152 units of the City's Rehabilitation Obligation will be addressed through continued participation in the rehabilitation efforts of the Housing Authority of City of Hackensack and in the Bergen County Home Improvement Program.

6. The City is satisfying its 201-unit Prior Round Obligation with 171 credits and 51 rental bonuses as follows:

- a. 28 credits from affordable family for-sale units at Clinton Terrace Condominiums, Pulaski Place Condominiums, and Franklin Garden Condominiums.
- b. 50 credits from affordable senior rental units at Patrick DiZenzo Court, which the City and the Hackensack Housing Authority have entered into an Agreement to remove the residency preference on 50 of the 60 units within the development.
- c. 33 credits from affordable Supportive and Special Needs units and Group Homes located throughout the City.
- d. 60 credits and 51 bonus credits towards the Inclusionary Family Rental units for the Lot T Redevelopment Plan (Block 305, Lot 2).
- e. These units and bonus credits applied toward the City's Prior Round Obligation total 222, generating a 21-unit surplus.

7. The City has a Round 3 obligation of 0.

8. In addition to the mechanisms satisfying the City's Rehabilitation Obligation and Prior Round Obligation, the City's Fair Share Plan includes three proposed 100% affordable family rental projects that the City is considering for development:

- a. 251 West Railroad Avenue (Block 356, Lot 1): The City is contemplating a maximum of 25 affordable family rental units on the current City-owned parking lot and has a Memorandum of Understanding ("MOU") with Greater

Bergen Community Action (“GBCA”) for development of the property. Should this project move forward, the City will amend its MOU with GBCA and support the project for two funding cycles. Should neither application be successful, the City may withdraw its support from the project.

- b. Housing Authority of Bergen County (“HABC”), 147-155 Hudson Street, 18 Lodi Street (Block 58, Lots 1.02, 2 through 5, 36 and 39): HABC is proposing a mixed use, 100% affordable family rental project. The purchase of the property is still in the due diligence phase and not ready for funding applications. Should the City choose to support this project, it will enter into a MOU with HABC and support the project through two tax-credit funding cycles. Should no funding application be successful, the City may withdraw its support from the project.
- c. The City and HHA have agreed to work together to determine if any City-owned land can be developed into a 100% affordable housing project of up to 60 units. Should the City and HHA agree upon a proposed project, the parties will execute a MOU and the City will support the project’s tax-credit application for two funding cycles.

9. The City has also adopted three Inclusionary Overlay Zones, IO-1A, IO-1B, and IO-1C (Exhibit P-10, page 92), which requires a ten percent (10%) affordable housing set-aside for any project that includes residential units taking advantage of the increase in density of the overlay zones. In addition, the City also adopted a requirement for all residential projects built without taking advantage of the overlay zones in the same areas to have a ten percent (10%) affordable housing set-aside. The City may also utilize these overlay zones to satisfy any gap in

its Prior Round Obligation by adopting a Redevelopment Plan in that same area for the specified number of units (Exhibits P-1 & P-2).

10. Within 120 days of the entry of this Order, the City shall submit a letter, along with any necessary certifications and documentation, to the Court, the Court Master, and FSHC addressing the Conditions described in the Court Master's report dated March 23, 2022 (Exhibit P-21) as supplemented herein. Said deadline can only be extended if the City, the Court Master, FSHC, and the Court agree to such an extension. With regard to Condition 7 on page 25 of the Court Master's Report, the City has submitted the adopted Amended Lot T Redevelopment Plan (Exhibit P-13), which was also testified to on the record during the Combined Fairness and Compliance Hearing and is hereby deemed satisfied. The remaining Conditions to be satisfied from the Court Master's report (Exhibit P-21) are as follows:

- a. Condition 1: The City must amend Section 45A-4 its Affordable Housing Ordinance to revise or remove the section that discusses expenditures towards its Rehabilitation obligation.
- b. Condition 2: For Patrick DiZenzo Court, the City must provide a copy of the original Certificate of Occupancy and a current unit census or tenant roll indicating the restricted rent level, household incomes, and must, by October 1, 2022, indicate what experienced and qualified Administrative Agent will administer the 50 units from which the residency will be removed. If the HHA chooses to administer the units, the City's Administrative Agent must oversee the affirmative marketing and random selection process.
- c. Condition 3: For the Clinton Terrace, Pulaski Place and Franklin Garden units, the City must provide documentation of the HUD-designated affordability level of each unit, must provide proof that there is no municipal residency preference for any of these units, must demonstrate that these units are administered by a qualified Administrative Agent, and must provide the existing affirmative marketing plans and resale operating manuals.
- d. Condition 4: The City must provide original Certificates of Occupancy for Pulaski Place and Franklin Garden.
- e. Condition 5: The City must verify income levels of the 298 Jackson Street units and must secure revised surveys for the facilities not restricted to residents aged 55 and older. In addition, the date of first operation of the facility at 25 Kansas Street must be verified, the number of bedrooms at 25

Kansas Street and 279 Lookout Avenue must be verified, and the narrative and all compliance tables in the Housing Element and Fair Share Plan must be updated accordingly as needed.

- f. Condition 6: The City must provide documentation of sufficient water supply and conveyance capacity, and sufficient sewer conveyance and treatment capacity, to serve the Lot T Redevelopment project.
- g. Condition 7: The City must provide a draft of a redeveloper's agreement for the Lot T Redevelopment project and provide the required income-bedroom breakdown for the project as part of the redevelopment agreement.
- h. Condition 8: The City must provide documentation from relevant professionals of sufficient water supply, water and sewer infrastructure, and sewage treatment capacity to accommodate all proposed developments, including both Lot T and the sites for proposed 100% affordable developments.
- i. Condition 9: The City must show that the revised adopted Housing Element and Fair Share Plan made the changes listed in the Court Master's Report on pages 31-33 (Exhibit P-21).
- j. Condition 10: The City must re-adopt its Spending Plan and make the changes listed in the Court Master's Report on page 34 (Exhibit P-21).
- k. Condition 11: The City must revise its Affordable Housing Ordinance to indicate the date of annual monitoring reporting as the date of this conditional JOR Order.
- l. Condition 12: The City must revise and re-adopt its Affirmative Marketing Plan to include a section from the COAH model Affirmative Marketing Plan for each compliance mechanism.
- m. Condition 13: As the City's Affordable Housing Ordinance creates the position of Municipal Housing Liaison, the City will revise the Affordable Housing Ordinance to remove the requirement to adopt a separate ordinance to create the position of Municipal Housing Liaison.
- n. Condition 14: The City must provide an adopted Resolution appointing a qualified and experienced Administrative Agent and must provide the executed agreement retaining the Administrative Agent's services.

11. Subject to the deadline established in Paragraph 10 above, upon the Court Master receiving, reviewing, and approving the additional documents and revisions required by the Conditions in Paragraph 10 above, the Court Master shall advise the Court that said Conditions

have been satisfied. Upon such notification, the City will provide the Court with a form of Order that will indicate that all Conditions have been satisfied, and that the City's conditional Judgment of Compliance and Repose has become a Final Judgment of Compliance and Repose, without any remaining Conditions.

12. The City's updated and adopted Development Fee Ordinance, including all amendments since the Court approved the City's Development Fee Ordinance on December 13, 2021, which have been marked into evidence during the combined Fairness and Compliance Hearing as Exhibits P-5 and P-6, is hereby approved by the Court.

13. Starting on the anniversary of the date of this Order, and every anniversary thereafter, the City shall provide a report on all affordable housing activity and trust fund activity consistent with the FSHC Settlement Agreement, the First Amendment and the 'ongoing monitoring conditions' set forth in the Court Master's report dated March 23, 2022 (Exhibit P-21). The annual affordable housing activity report shall state the location and the number of affordable units approved, under construction, and built, and it shall provide information on the type, bedroom, and income distribution of the affordable units and whether a deed restriction has been imposed on them.


14. On or before the second anniversary of this Order, the City shall 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 the 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 housing obligation under the terms of the FSHC Settlement Agreement as amended.

15. The City shall not repeal, modify or amend its Affordable Housing Ordinance, Housing Element and Fair Share Plan, or any other municipal ordinance in effect as of the date

of this Judgment that affects the use or development of the affordable housing committed to, except with the consent of FSHC and the Court's approval upon notice and opportunity to be heard to all interested parties, unless such a change does not materially change what has been adopted and does not alter the terms and conditions agreed upon in the FSHC Settlement Agreement as amended.

16. Pursuant to Paragraph 21 of the FSHC Settlement Agreement and Paragraph 7 of the First Amendment to the FSHC Settlement Agreement, FSHC and/or the City may enforce any provision of the FSHC Settlement Agreement as amended, and by extension this Judgment, through a motion to enforce litigant's rights or by the filing of a separate action in the Superior Court, Bergen County.

17. A copy of this order shall be considered served on all Counsel of Record via Ecourts. Counsel for the City shall provide a copy to the Court Master via email within seven (7) days of receipt.



HONORABLE GREGG A. PADOVANO, J.S.C.

EXHIBITS MARKED INTO EVIDENCE AT HEARING

P-1	City of Hackensack Amended Settlement Agreement with Fair Share Housing Center, with attached Resolution Authorizing the Mayor to Execute same, dated November 9, 2021
P-2	City of Hackensack Amended Housing Element and Fair Share Plan with attached Appendix
P-3	Hackensack City Planning Board Resolution Adopting the City's Amended Housing Element and Fair Share Plan, dated February 9, 2022.
P-4	Hackensack City Governing Body Resolution Endorsing the City's Housing Element and Fair Share Plan, dated March 8, 2022.
P-5	City of Hackensack Ordinance No. 52-2020 Amending the City's Development Fee Ordinance, dated December 22, 2020.
P-6	Hackensack City Ordinance No. 08-2022 Amending the City's Development Fee Ordinance, dated February 22, 2022.
P-7	Court Order Conditionally Approving City's December 22, 2020 Development Fee Ordinance, dated December 13, 2021
P-8	Hackensack City Ordinance No. 07-2021 Amending the City's Affordable Housing Ordinance, dated June 15, 2021.
P-9	Hackensack City Ordinance No. 51-2020 Repealing and Replacing the City's Affordable Housing Ordinance, dated December 22, 2020.
P-10	Adopted Zoning Ordinance requiring inclusionary residential development in zones containing Inclusionary Overlay (IO) Zones.
P-11	City of Hackensack Adopted Amended Spending Plan with Resolution
P-12	City of Hackensack Adopted Affirmative Marketing Plan with Resolution
P-13	City of Hackensack Adopted Lot T Redevelopment Plan and Ordinance No. 06-2022 Adopting the Plan
P-14	City of Hackensack Agreement with Hackensack Housing Authority regarding Patrick DiZenzo Court and Authorizing Resolution dated August 17, 2021.
P-15	City of Hackensack Adopted Affordability Assistance Manual

P-16	City of Hackensack Adopted Resolution of Intent to Bond/Fund
P-17	Hackensack City Request for Proposals for City's Administrative Agent, published January 24, 2022
P-18	Hackensack City Resolution Appointing a Municipal Housing Liaison, dated January 26, 2021
P-19	November 5, 2020 Court Order Approving the FSHC Settlement Agreement and Scheduling a Compliance Hearing for March 3, 2021.
P-20	Notice Certification of Nancy L. Holm, Esq. dated March 23, 2022.
P-21	Court Master's Final Compliance Report dated March 23, 2022.
P-22	Additional Crediting Documentation
P-23	Full eCode Version of Section 45A of the Code of the City of Hackensack entitled "Affordable Housing" – Codified Version of the City's Affordable Housing Ordinance and Development Fee Ordinance, updated through June 2021 Amendments to Affordable Housing Ordinance with Notation of February 2022 Amendments to Development Fee Ordinance
P-24	March 2, 2021 Court Order Adjourning Compliance Hearing to September 14, 2021
P-25	August 31, 2021 Court Order Adjourning Compliance Hearing to December 21, 2021
P-26	December 13, 2021 Court Order Adjourning Compliance Hearing to March 29, 2022
P-27	PowerPoint Presentation prepared and utilized in testimony by Michael J. Mistretta, PP, LLA

APPENDIX E.3

MAY 13, 2024 FAIRNESS ORDER.

SURENIAN, EDWARDS, BUZAK & NOLAN LLC
311 Broadway, Suite A
Point Pleasant Beach, NJ 08742
(732) 612-3100
Attorneys for Declaratory Plaintiff, City of Hackensack
By: Nancy L. Holm (Attorney ID:013442006)

FILED

MAY 13 2024

GREGG A. PADOVANO, J.S.C.

**IN THE MATTER OF THE
APPLICATION OF THE CITY OF
HACKENSACK, COUNTY OF BERGEN**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY**

DOCKET NO: BER-L-5731-15

Civil Action -Mount Laurel

ORDER OF FAIRNESS

THIS MATTER having been opened to the Court by Surenian, Edwards, Buzak & Nolan, LLC, on behalf of declaratory plaintiff, City of Hackensack (hereinafter “the City”) via a Declaratory Judgement Complaint (“DJ Action”) originally filed on June 15, 2015 wherein the City, among other things, sought judicial approval of its Housing Element and Fair Share Plan; and the Court having granted the City immunity from Mount Laurel lawsuits from the time of the filing of the City’s Declaratory Judgement action (hereinafter “DJ Action”); and Mary Beth Lonergan, PP, AICP, having been appointed as the Court-Appointed Master by Order dated September 21, 2015; and Fair Share Housing Center (“FSHC”) having intervened in the City’s DJ Action; and, on September 10, 2020, the City having executed a Mount Laurel Settlement Agreement with FSHC; and said FSHC Settlement Agreement having set agreed upon fair share obligations and how the City would satisfy same; and the FSHC Settlement Agreement was approved by a Court Order entered on November 5, 2020, after a properly noticed Fairness Hearing was held on October 22, 2020; and between the Fairness Hearing and Compliance Hearing dates the City and FSHC Amended the FSHC Settlement Agreement (hereinafter “First Amendment”) on November 10, 2021, which was approved by the Court at a duly-noticed combined Fairness and Compliance Hearing held on March 29, 2022; and the Court granted the City a Conditional Judgment of Compliance and Repose (“JOR”) via an Order entered by the Court on April

22, 2022; and since the entry of the conditional JOR, the City worked with the Hackensack Housing Authority as was required by the FSHC Settlement Agreement, as amended, and the Hackensack Housing Authority having proposed a project that can be incorporated into the City's Housing Element and Fair Share Plan; and the NRP Group having proposed a 100% affordable family rental project on 111 Essex Street within the City's inclusionary overlay zone; and in order for both projects to pursue funding from the HMFA, both projects must be included in a Court-approved settlement agreement between the City and FSHC; and FSHC and the City agreed that these projects will be a beneficial addition to the City's Housing Element and Fair Share Plan; and to implement the proposed changes the City and FSHC agreed to enter into a Second Amendment to the September 10, 2020 Settlement Agreement (hereinafter "Second Amendment"); and the City and FSHC entered into a Second Amendment on March 12, 2024; and the City having provided proper notice of the Fairness Hearing; and the duly-noticed Fairness Hearing having been held on April 11, 2024, during which the City marked into evidence Exhibits P-1 to P-10; and the Court having considered the testimony taken during the Fairness Hearing and having reviewed all of the documents submitted into evidence; and good cause having been shown;

IT IS on this 13TH day of MAY 2024, **ORDERED** as follows:

1. The Court finds and determines pursuant to the judicial standards prescribed by the Appellate Division in East/West Venture v. Bor. Of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), and through analysis of the Second Amendment between the City and FSHC, and on the basis of the testimony taken during the Fairness Hearing conducted on April 11, 2024; that the Settlement between FSHC and the City is fair, reasonable and adequately protects the interest of very low, low and moderate income households, and the Court hereby approves the Second Amendment, which is attached hereto as Exhibit P-1.

2. As a result of the Second Amendment between the City and FSHC, the City's fair share obligations remain unchanged: its Rehabilitation Obligation is 582, its Prior Round Prospective Need Obligation is 201, and the Third Round Prospective Need Obligation is 0.

3. The City shall work with the Hackensack Housing Authority and the Bergen County Improvement Program to satisfy its Rehabilitation Obligation.

4. The City will satisfy its Prior Round Obligation of 201 units as follows:

- a. 22 family for-sale units from the Clinton Terrace Condos project.
- b. 4 family for-sale units from the Pulaski Place Condos project.
- c. 2 family for-sale units from the Franklin Garden Condos project.
- d. 50 senior rental units from the Patrick DiZenzo Court project.
- e. 3 supportive and special needs credits from the AAH Bergen County Group Home.
- f. 2 supportive and special needs credits from the Advance Housing Group Home located at 279 Clark Street.
- g. 2 supportive and special needs credits from the Advance Housing Group Home located at 10 Orchid Street.
- h. 2 supportive and special needs credits from the Advance Housing Group Home located at 451 Heath Place.
- i. 4 supportive and special needs credits from the Bergen & Passaic ARC Group Home.
- j. 7 supportive and special needs credits from the Comprehensive Behavioral Healthcare project located on 298 Jackson Street.
- k. 5 supportive and special needs credits from the Community Action for Independent Living Group Home on 155 Poor Street.
- l. 6 supportive and special needs credits from the NJ ARC Bergen-Passaic Unit located at 279 Lookout Avenue.

- m. 68 family rental units from the 100% affordable project by the NRP Group located at 111 Essex Street.
- n. 60 family rental units from the inclusionary project located on Block 305, Lot 2.
- o. 51 rental bonus credits.

5. The City of Hackensack is considering the following 100% affordable family rental projects to satisfy its Prior Round Obligation:

- a. 24 affordable family rental units from the Greater Bergen Community Action project located on Block 356, Lot 1.
- b. Up to 60 units from a 100% affordable housing project with the Hackensack Housing Authority.
- c. 30 affordable age-restricted units from the Hackensack Housing Authority Project on Block 66, Lot 17.
- d. A mixed-use 100% affordable project located on Block 58, Lots 1.02, 3, 4, 5, 19.02, 36, and 39.
- e. 68 family rental units from the 100% affordable project with the NRP Group located on Block 76, Lot 45 & Lot 7.03.

6. A Compliance Hearing will be held on the 12TH day of SEPTEMBER, 2024 at 10:30 a.m./p.m. to consider approval of the City's Housing Element and Fair Share Plan and the issuance of a final Judgement of Compliance and Repose, which will provide the City immunity from all Mount Laurel lawsuits through July 2, 2025,

7. The City's immunity from Mount Laurel lawsuits, including builder's remedy lawsuits, that was granted in the Conditional Judgment of Compliance and Repose will remain in place.

8. All other terms and conditions in the original Settlement Agreement, First Amendment, and Second Amendment (Exhibit P-1) between the City and FSHC shall be adhered to, and all such terms and conditions are hereby incorporated by reference.

9. Counsel for the City shall provide copies of this Order to all relevant parties within seven (7) days of receipt.



HONORABLE GREGG A. PADOVANO, J.S.C.

APPENDIX E.4

OCTOBER 2, 2024 CONDITIONAL JUDGMENT OF COMPLIANCE AND REPOSE.

SURENIAN, EDWARDS, BUZAK & NOLAN LLC

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Point Pleasant Beach, NJ 08742

(732) 612-3100

Attorneys for Declaratory Plaintiff, City of Hackensack

By: Nancy L. Holm (Attorney ID:013442006)

FILED

OCT 02 2024

REGG A. PADOVANO, J.S.C.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY**

**IN THE MATTER OF THE
APPLICATION OF THE CITY OF
HACKENSACK, COUNTY OF BERGEN**

DOCKET NO: BER-L-5731-15

Civil Action -Mount Laurel

**AMENDED
CONDITIONAL JUDGMENT
OF
COMPLIANCE AND REPOSE**

THIS MATTER having been opened to the Court by Surenian, Edwards, Buzak & Nolan, LLC, on behalf of declaratory plaintiff, City of Hackensack (hereinafter “the City”) via a Declaratory Judgement Complaint (“DJ Action”) originally filed on June 15, 2015 wherein the City, among other things, sought judicial approval of its Housing Element and Fair Share Plan; and the Court having granted the City immunity from Mount Laurel lawsuits from the time of the filing of the City’s Declaratory Judgement action (hereinafter “DJ Action”); and Mary Beth Lonergan, PP, AICP, having been appointed as the Court-Appointed Master by Order dated September 21, 2015; and Fair Share Housing Center (“FSHC”) having intervened in the City’s DJ Action; and, on September 10, 2020, the City having executed a Mount Laurel Settlement Agreement with FSHC; and said FSHC Settlement Agreement having set agreed upon fair share obligations and how the City would satisfy same; and the FSHC Settlement Agreement having been approved by a Court Order entered on November 5, 2020, after a properly noticed Fairness Hearing held on October 22, 2020; and between the Fairness Hearing and Compliance Hearing dates the City and FSHC having amended the FSHC Settlement Agreement (hereinafter “First Amendment”) on November 10, 2021, which was approved by the Court at a duly-

noticed combined Fairness and Compliance Hearing held on March 29, 2022; and the Court having granted the City a Conditional Judgment of Compliance and Repose (“JOR”) via an Order entered by the Court on April 22, 2022; and since the entry of the conditional JOR, the City having worked with the Hackensack Housing Authority as was required by the FSHC Settlement Agreement, as amended, and the Hackensack Housing Authority having proposed a project that can be incorporated into the City’s Housing Element and Fair Share Plan; and the NRP Group having proposed a 100% affordable family rental project on 111 Essex Street within the City’s inclusionary overlay zone; and in order for both projects to pursue funding from the HMFA, both projects must be included in a Court-approved settlement agreement between the City and FSHC; and FSHC and the City having agreed that these projects will be a beneficial addition to the City’s Housing Element and Fair Share Plan; and to implement the proposed changes the City and FSHC having agreed to enter into a Second Amendment to the September 10, 2020 Settlement Agreement (hereinafter “Second Amendment”); and the City and FSHC having entered into a Second Amendment on March 12, 2024; and the City having provided proper notice of the Fairness Hearing; and the duly-noticed Fairness Hearing having been held on April 11, 2024, with the Court having considered the testimony taken during the Fairness Hearing and having reviewed all of the documents submitted into evidence and determined that the Second Amendment was fair and reasonable to low and moderate income households; and the Court having entered a Fairness Order on May 13, 2024; and the Fairness Order having scheduled a Compliance Hearing for September 12, 2024; and the City having adopted and endorsed an Amended Housing Element and Fair Share Plan to implement the terms of the Second Amendment; and the City having provided proper notice of the Compliance Hearing; and the duly-noticed Compliance Hearing having been held on September 12, 2024, during which the City marked Exhibits P-1 to P-11 into evidence; and the Court having considered the testimony taken at the Compliance Hearing and having reviewed all of the documents submitted into evidence; and good cause having been shown.

IT IS on this 2ND day of October 2024, **ORDERED** as follows:

1. Subject to the satisfaction of the Conditions in Paragraphs 9 and 10 of this Order, the City of Hackensack Amended Fair Share Plan, along with its Appendices (Exhibit P-1) is hereby approved and the City is granted a Judgment of Compliance and Repose as to its Rehabilitation Share, its Prior Round Obligation (1987-1999), and its Third Round Obligation (the last comprised of both the Gap (1999-2015) and the Prospective (2015-2025) Needs), pursuant to the Court approved Second Amendment to the Settlement Agreement entered into between the City and FSHC on September 10, 2020, as amended on March 12, 2024 (Exhibit P-4), the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) (“FHA”), the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.) (“UHAC”), applicable Council on Affordable Housing (hereinafter “COAH”) substantive rules, and Mount Laurel case law, including the New Jersey Supreme Court’s Mount Laurel IV decision.

2. The City’s Judgment of Compliance and Repose shall remain in effect for ten (10) years beginning on July 2, 2015 and ending on July 2, 2025, and during this ten (10) year period the City shall have repose from all Mount Laurel lawsuits, including, but not limited to, Builder’s Remedy lawsuits.

3. Four hundred thirty (430) units of the City’s 582-unit Rehabilitation Obligation have been rehabilitated through a combination of improvements made by the Hackensack Housing Authority (“HHA”) to HUD-funded developments under its jurisdiction, as well as units rehabilitated by the Bergen County Home Improvement Program (“BCHIP”). Those rehabilitated units are accounted for as follows:

- a. 48 eligible units from Barsalona Court, 164 Beech Street, Block 231, Lot 21 (HHA);
- b. 98 eligible units from Harry Berkie Gardens, 60 Kansas Street, Block 66, Lot 17 (HHA);
- c. 133 eligible units from Oratam Court, 170 Sussex Street, Block 225, Lot 1 (HHA);

- d. 46 eligible units from Ostrowski Court, 230 Central Avenue, Block 225, Lot 1 (HHA);
- e. 100 eligible units from Widnall Towers, 65 First Street, Block 332, Lot 49(HHA);
- f. 2 units located at 70 Cedar Avenue, Block 567, Lot 1.01 (BCHIP);
- g. 1 unit located at 83 Linden Street, Block 429, Lot 24 (BCHIP); and
- h. 1 unit located at 135 Ricardo Place, Block 222.01, Lot 22 (BCHIP).
- i. 1 unit located at 73 Vanderbeck Place, Block 435, Lot 45 (BCHIP).

4. The City proposes to further satisfy its rehabilitation obligation with 30 senior rental units to be constructed in a 100% affordable project by the Hackensack Housing Authority at 60 Kansas Street, Block 66, Lot 17, where the units will have a residency preference for Hackensack residents.

5. The remaining 122 units of the City's Rehabilitation Obligation will be addressed through continued participation in the rehabilitation efforts of the Hackensack Housing Authority ("HHA") and in the Bergen County Home Improvement Program. The City shall have a continuing annual monitoring obligation to provide information on HHA rehabilitation expenditures to ensure that the HHA is on track to expend at least \$10,000 in hard costs per rehabilitated unit by 2025.

6. The City is satisfying its Prior Round Obligation of 201 units as follows:
- a. 22 family for-sale units from the Clinton Terrace Condos project.
 - b. 4 family for-sale units from the Pulaski Place Condos project.
 - c. 2 family for-sale units from the Franklin Garden Condos project.
 - d. 50 senior rental units from the Patrick DiZenzo Court project.
 - e. 3 supportive and special needs credits from the AAH Bergen County Group Home.
 - f. 2 supportive and special needs credits from the Advance Housing Group Home located at 279 Clark Street.

- g. 2 supportive and special needs credits from the Advance Housing Group Home located at 10 Orchard Street.
- h. 2 supportive and special needs credits from the Advance Housing Group Home located at 451 Heath Place.
- i. 4 supportive and special needs credits from the Bergen & Passaic ARC Group Home.
- j. 7 supportive and special needs credits from the Comprehensive Behavioral Healthcare project located on 298 Jackson Street.
- k. 5 supportive and special needs credits from the Community Action for Independent Living Group Home on 155 Poor Street.
- l. 6 supportive and special needs credits from the NJ ARC Bergen-Passaic Unit located at 279 Lookout Avenue.
- m. 68 family rental units from the 100% affordable project by the NRP Group located at 111 Essex Street.
- n. 60 family rental units from the inclusionary project located on Block 305, Lot 2.
- o. 24 affordable family rental units from the Greater Bergen Community Action project located on Block 356, Lot 1.
- p. 51 rental bonus credits.
- q. These projects and credits create a surplus of 116 credits against the City's Prior Round obligation. The City may utilize its surplus against future obligations or to satisfy a gap in crediting in its Prior Round Obligation if necessary.

7. The City of Hackensack is considering the following 100% affordable family rental projects to satisfy its Prior Round Obligation:

- a. Housing Authority of Bergen County ("HABC"), 147-155 Hudson Street, 18 Lodi Street (Block 58, Lots 1.02, 2 through 5, 36 and 39): HABC is proposing a mixed

use, 100% affordable family rental project. The purchase of the property is still in the due diligence phase and not ready for funding applications. Should the City choose to support this project, it will enter into a MOU with HABC and support the project through two tax-credit funding cycles. Should no funding application be successful, the City may withdraw its support from the project.

8. Except as provided in the Conditions set forth in Paragraphs 10 and 11 below, per the testimony of the Court Adjudicator at the Compliance Hearing, all conditions from the 2022 JOR Order have been satisfied.

9. The following Conditions set forth in the September 9, 2024 Court Adjudicator's report (Exhibit P-11) were testified to on the record during the Compliance Hearing and are hereby deemed fully or partially satisfied:

- a. **Condition 1:** The City provided the adopted resolution endorsing the Amended HEFSP. (Exhibit P-1). This condition is fully satisfied.
- b. **Condition 6:** The City provided the adopted Planning Board resolution granting preliminary and final site plan and minor subdivision approval for the Lot T redevelopment project. (Exhibit P-7). This condition is fully satisfied.
- c. **Condition 7:** The City provided the adopted ordinance adopting the redevelopment plan for the 251 W. Railroad Avenue 100% affordable project, as well as the executed redeveloper's agreement. (Exhibits P-8 and P-9). This condition is fully satisfied.
- d. **Condition 8:** The City provided the adopted ordinance adopting the redevelopment plan for the NRP Group LLC/111 Essex 100% affordable project. (Exhibit P-6). The City must still provide the Planning Board approval and executed Redeveloper's Agreement with NRP Group, LLC. This condition is partially satisfied.

10. Within 120 days of the entry of this Order, the City shall submit a letter, along with any necessary certifications and documentation, to the Court, the Court Adjudicator, and FSHC addressing the Conditions described in the Court Adjudicator's report dated September 9, 2024 (Exhibit P-11) as supplemented herein, except for Condition 2, which time period is set forth in Paragraph 11. Said deadline can only be extended if the City, the Court Adjudicator, FSHC, and the Court agree to such an extension. The Conditions to be satisfied from the Court Adjudicator's report (Exhibit P-11) are as follows:

- a. **Condition 3**: The City must provide the necessary additional information to demonstrate the creditworthiness of some or all of the 28 affordable for-sale units (Pulaski Place, Franklin Gardens, and Clinton Terrace) and remove from the City's Prior Round compliance plan any units for which creditworthiness cannot be verified.
- b. **Condition 4**: Once the creditworthiness of the 28 affordable for-sale units from the developments listed in Condition 3 is determined, the City must take the necessary steps to transfer administration of the creditworthy units to an experienced and qualified Administrative Agent acceptable to the City.
- c. **Condition 5**: as to the supportive and special needs units identified in the City's Amended HEFSP, for those facilities whose current surveys indicate their facilities are age-restricted, the City must secure updated surveys confirming that the facilities are open to all adults aged 21 and older. The City must also provide a survey and license for 266 Spring Valley Avenue.
- d. **Condition 8**: The City must provide the adopted resolution of the land use board approval for the NRP Group, LLC 100% affordable project located at 111 Essex Street, as well as an executed redeveloper's agreement, which must include a financial

pro forma and an implementation schedule as well as affordable housing requirements.

- e. **Condition 9**: The City must provide documentation of water and sewer capacity to serve the 60 Kansas Street and 111 Essex Street projects.
- f. **Condition 10**: The City must provide the adopted resolution of approval of the updated Spending Plan.
- g. **Condition 11**: The City must update and re-adopt its Affordability Assistance Manual to reflect the allocations in the Spending Plan.
- h. **Condition 12**: The City must provide for review and then adopt an updated Affirmative Marketing Plan that includes all compliance mechanisms for which it is claiming Prior Round credit that are subject to affirmative marketing requirements, and that sets forth the random selection process to be used.

11. Within 180 days of the entry of this Order, the City will provide the adopted redevelopment plan and executed redeveloper's agreement with the Hackensack Housing Authority for its proposed project at 60 Kansas Avenue, which must include a financial pro forma and construction schedule. Said deadline can only be extended if the City, the Court Adjudicator, FSHC, and the Court agree to such an extension (**Condition 2**).

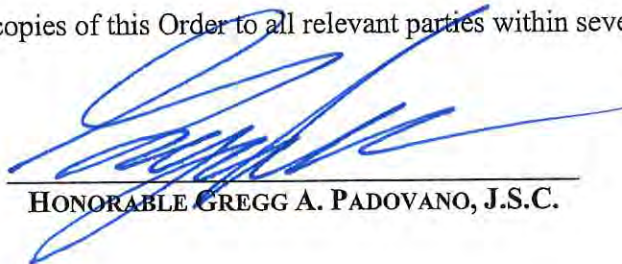
12. Subject to the deadlines established in Paragraphs 10 and 11 above, upon the Court Adjudicator receiving, reviewing, and approving the additional documents and revisions required by the Conditions in Paragraphs 10 and 11 above, the Court Adjudicator shall advise the Court that said Conditions have been satisfied. Upon such notification, the City will provide the Court with a form of Order that will indicate that all Conditions have been satisfied, and that the City's conditional Judgment of Compliance and Repose has become a Final Judgment of Compliance and Repose, without any remaining Conditions.

13. Any paragraphs in the 2022 JOR Order, attached hereto as Exhibit A, not specifically amended by this Order remain in full force and effect.

14. The City's immunity from Mount Laurel lawsuits, including builder's remedy lawsuits, that was granted in the 2022 Conditional Judgment of Compliance and Repose will remain in place.

15. All other terms and conditions in the original Settlement Agreement, First Amendment, and Second Amendment (Exhibit P-4) between the City and FSHC, as well as the terms of the 2022 JOR Order not directly changed by this Order shall be adhered to, and all such terms and conditions not already satisfied are hereby incorporated by reference.

16. Counsel for the City shall provide copies of this Order to all relevant parties within seven (7) days of receipt.



HONORABLE GREGG A. PADOVANO, J.S.C.

EXHIBITS MARKED INTO EVIDENCE AT COMPLIANCE HEARING

P-1	2024 Amended Housing Element and Fair Share Plan and its appendix
P-2	Resolution Adopting the Amended HEFSP
P-3	Resolution Endorsing the Amended HEFSP
P-4	Second Amendment to the Settlement Agreement with FSHC and Resolution Authorizing the Mayor to execute same
P-5	May 13, 2024 Fairness Order Approving the Second Amendment and Scheduling the Compliance Hearing
P-6	Ordinance adopting Redevelopment Plan for 111 Essex and 142-144 Kansas Street (Condition 8)
P-7	Lot T Redevelopment Preliminary and Final Site Plan Approval (Condition 6)
P-8	Ordinance Adopting Redevelopment Plan for 251 W. Railroad Avenue (Condition 7)
P-9	Resolution Naming Redeveloper and adopting Redevelopment Agreement for 251 W. Railroad Avenue and the fully executed Redevelopment Agreement (Condition 7)
P-10	The September 10, 2024 Notice Certification of Nancy L. Holm, Esq.
P-11	The Special Adjudicator's Report dated September 9, 2024

APPENDIX F.

CITY OF HACKENSACK 2025-2035 SPENDING PLAN.

CITY OF HACKENSACK FOURTH ROUND AFFORDABLE HOUSING TRUST FUND SPENDING PLAN

I. INTRODUCTION

The City of Hackensack's affordable housing trust fund was first established through the adoption of the City's Development Fee Ordinance by Ord. No. 11-2011 on May 17, 2011, which formally created a dedicated revenue source for affordable housing in the City. The City established an interest-bearing housing trust fund account in December 2013, and entered into an Escrow Agreement between the City, COAH, and TD Bank which was signed on January 6, 2014.

As part of the Third Round, a Spending Plan was prepared to be adopted as part of the City's Third Round Housing Element and Fair Share Plan (HEFSP) detailing how the City of Hackensack intended to spend its affordable housing trust fund revenues pursuant to N.J.S.A 52:27D-329.2 and in alignment with the housing programs outlined in the HEFSP. During the course of the Third Round, the City prepared an initial HEFSP and corresponding Spending Plan, which was adopted by the Planning Board on February 9, 2022. On April 22, 2022, the Court entered a Conditional Judgment of Compliance and Repose (JOR), which approved the City's Third Round HEFSP, Spending Plan, and amendments to its Development Fee Ordinance. The Third Round HEFSP and Spending Plan were later amended to include municipally-sponsored affordable housing projects that were not reflected in the prior HEFSP and Settlement Agreement. On October 2, 2024, the Court entered an amended Conditional JOR, which approved the amended HEFSP, including the amended Spending Plan, subject to the satisfaction of the JOR conditions. The Special Adjudicator reviewed and approved the Spending Plan, which was adopted on December 10, 2024.

Using the approved amended Spending Plan from the Third Round as a basis, the City has prepared this Spending Plan for the Fourth Round period in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and the Fair Housing Act (N.J.S.A. 52:27D-301). This Spending Plan is submitted to the Superior Court of New Jersey for approval as an appendix to the City's Fourth Round Housing Element and Fair Share Plan.

Per the City's affordable housing trust fund bank statement ending in March 31, 2025, the City had a balance of \$6,644,917.16 in its affordable housing trust fund. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing Affordable Housing Trust Fund at TD Bank, located at 111 River Street, in Hackensack, for the purposes of affordable housing. These funds shall be spent in accordance with N.J.S.A. 52:27D-329.2 as described in the sections that follow.

I. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated through the Fourth Round period (July 1, 2025 - June 30, 2035), the City has considered the following:

- (a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. Projects which have had fees imposed upon them per Redevelopment Agreements.
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL):

The City received a \$1,000,000 PIL in 2014 for the Avalon Bay project. Currently, there are no committed payments in lieu of construction from any developer, although such payments may be collected in the future.

(c) Other funding sources:

The funds listed as "Other Income" in Table 1 of this Spending Plan include reimbursements from overpayments of administrative expenses and/or reconciliations of errors within the trust fund account ledger.

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund based on an annual percentage yield (APY) of 3%, compounding monthly.¹

2. REVENUE PROJECTION

One of the primary sources of revenue for the City's affordable housing trust fund is through development fees. Development fees are issued as a percentage of the equalized assessed value for residential and non-residential development, with this percentage differing based on the type of development. The collected payments of residential and non-residential development fees are then deposited into the City's affordable housing trust fund and are to be used and expensed in accordance with N.J.S.A. 52:27D-329.2.

Per § 45A-26 of the Hackensack City Code, residential development fees are issued as follows:

"(1) Within all zoning district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted."

¹ It is understood the current APY in the TD Bank account is greater than 3%; however, given the anticipated fluctuations in the interest rate over the next ten years, this report maintains a 3% APY, which will result in a more conservative projected interest earned income through June 2035.

(2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers shall be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized."

Per § 45A-27 of the Hackensack City Code, non-residential development fees are issued as follows:

"(1) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.

(2) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.

(3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero."

The City of Hackensack's permitting history and the rate of development are overwhelmingly comprised of larger, multi-family developments. For example, per the New Jersey Department of Community Affairs (DCA) Construction Code Reporter, which compiles monthly building permit and demolition activity data for every county and municipality in the State, the City issued permits for 2,319 new housing units over the five-year period of 2018-2022. Of these 2,319 new housing units, 2,293 housing units (or 98.9%) were granted permits for multi-family housing. Anecdotally, these developments have largely contributed fees to the City's affordable housing trust fund through Redevelopment Agreements rather than a set residential development fee. Since many of these payments are structured based on the progress of construction of the project, similar to the provisions outlined for development fees in the City's Ordinance, there are a number of pending payments that the City anticipates. However, under all current Redevelopment Agreements that do not include an affordable set-aside, fees are collected at the 1.5% residential development fee rate.

Given that this Spending Plan has been prepared at the start of the ten-year Fourth Round period, and assuming the variability of development trends over the next decade, the projection of revenue in the City's affordable housing trust fund during the Fourth Round is simplified by combining the income from residential development fees, non-residential development fees, and fees from Redevelopment Agreements over the last five years to calculate an annual development fee income average. This annual development fee income average is then redistributed over the forthcoming ten-year Fourth Round period.

Per the City's Affordable Housing Monitoring System (AHMS), which is used to report the City's trust fund transactions to the DCA, over the five-year period of March 31, 2020 to March 31, 2025, the City collected approximately \$5,499,594 in residential development fees, non-residential development fees, and fees from Redevelopment Agreements.² Therefore, on average, the City collected approximately \$1,099,918 per year, or approximately \$91,660 per month, from development fees and fees from Redevelopment Agreements. Based on a conservative assumption that development occurs at a similar rate over the next decade, a total of \$10,999,180 in revenue from development fees and fees from Redevelopment Agreements is expected to be collected from July 1, 2025 to June 30, 2035.

Additionally, based on an annual percentage yield of 3%, a projected account balance of approximately \$6,969,861 at the end of the Third Round (June 30, 2025), and average monthly deposits of \$91,660 from development fees/Redevelopment Agreement fee contributions, the City may project approximately \$4,179,649 in revenue collected from interest over the Fourth Round.

Therefore, for the period of July 1, 2025 through June 30, 2035, the City of Hackensack estimates to collect a total revenue of \$10,999,180 from development fees and Redevelopment Agreement fees, as well as approximately \$4,179,649 in account interest on existing funds (assuming a 3% APY). These revenue sources sum to a total of approximately \$15,178,831 in potential affordable housing trust fund account revenue during the Fourth Round.

As a result of these Fourth Round projections, by June 30, 2035, the City projects its total account revenue to equal approximately \$22,778,139, which is calculated by summing approximately \$7,274,364 in account revenue through March 31, 2025, \$324,944 in estimated account revenue from March 31, 2025 to the end of the Third Round period on June 30, 2025, and \$15,178,831 in potential account revenue estimated for the Fourth Round period of July 1, 2025 through June 30, 2035. It shall be emphasized that the amount of \$22,78,139 in total revenue by the end of the Fourth Round, inclusive of \$15,178,831 collected during the Fourth Round period, is an estimation only for the purposes of the Spending Plan and does not commit the City to collecting this amount by June 30, 2035.

Furthermore, all revenue from the affordable housing trust fund collected during the Third Round period shall be allocated as provided in the adopted Third Round Spending Plan. This Fourth Round Spending Plan therefore only provides an allocation of funds projected to be collected during the Fourth Round (\$15,178,831), as the remaining revenue within the affordable housing trust fund has been set aside to be spent as outlined in the adopted Third Round Spending Plan. Should any change in circumstances necessitate the allocation of funds as detailed in the Third Round Spending Plan to be modified, the City reserves the right to amend the Fourth Round Spending Plan to address any adjustments to the apportionment of existing trust fund monies.

² As of March 31, 2025, the City reported a total of \$6,575,242.30 in its affordable housing trust fund via the AHMS, which consisted of approximately \$7,274,363.71 in income (inclusive of \$5,918,369 in development fees/Redevelopment Agreement fees) and \$699,121.41 in expenditures.

Spending Plan

TABLE 1: PROJECTED REVENUES AFFORDABILITY HOUSING TRUST FUND JULY 1, 2025 – JUNE 30, 2035
HACKENSACK, BERGEN COUNTY, NEW JERSEY

PROJECTED REVENUES – AFFORDABLE HOUSING TRUST FUND – JULY 1, 2025 THROUGH JUNE 30, 2035														
SOURCE OF FUNDS	REVENUES PRIOR TO START OF FOURTH ROUND													
	REVENUES AS OF MARCH 31, 2025	PROJECTED REVENUES MAR 31, 2025 – JUNE 30, 2025	JULY 1 2025 – DEC 31 2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	JUNE 30, 2035	FOURTH ROUND TOTAL REVENUE
1) Income from Residential Development Fees, Non-Residential Development Fees, and Redevelopment Agreement Fees	\$5,918,369	\$274,980	\$549,960	\$1,099,918	\$1,099,918	\$1,099,918	\$1,099,918	\$1,099,918	\$1,099,918	\$1,099,918	\$1,099,918	\$1,099,918	\$549,960	\$10,999,180
2) Payments in Lieu of Construction	\$1,000,000	—	—	—	—	—	—	—	—	—	—	—	—	—
3) Other Income (a)	\$10,734	—	—	—	—	—	—	—	—	—	—	—	—	—
4) Interest on Existing	\$345,261	\$49,964	\$107,177	\$243,853	\$284,166	\$325,689	\$368,457	\$412,508	\$457,881	\$504,615	\$552,751	\$602,331	\$320,221	\$4,179,649 (d)
Total	\$7,274,364 (b)	\$324,944 (c)	\$657,137	\$1,343,771	\$1,384,084	\$1,425,607	\$1,468,375	\$1,512,426	\$1,557,799	\$1,604,533	\$1,652,669	\$1,702,249	\$870,181	\$15,178,831
(a) "Other Income" includes reimbursements from overpayments of administrative expenses and/or reconciliations of errors within the trust fund account ledger.														
(b) As of March 31, 2025, the City reported a total of \$6,575,242.30 in its affordable housing trust fund via the AHMS, which consisted of approximately \$7,274,363.71 in income and \$699,121.41 in expenditures.														
(c) Projected revenues over the period of March 31, 2025 to June 30, 2025 is calculated based on a starting account balance of \$6,644,917.16 as of March 31, 2025 per the TD bank statement, average monthly deposits of approximately \$91,660 based on projected development fee/Redevelopment Agreement Fee contributions, and an APY of 3.0% (compounded monthly).														
(d) Interest over the ten-year Fourth Round period is calculated based on a projected account balance of approximately \$6,969,861 at the end of the Third Round (June 30, 2025), average monthly deposits of approximately \$91,660 based on projected development fee/Redevelopment Agreement Fee contributions, and an APY of 3.0% (compounded monthly).														

3. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the City of Hackensack:

(a) Collection of Development Fee revenues:

Collection of development fee revenues shall be consistent with the City of Hackensack's Development Fee Ordinance for both residential and non-residential developments in accordance with P.L. 2024, c.2 and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

Pursuant to a development approval by the Board having jurisdiction, the City Clerk will notify the construction official of the approval. At the time of construction permit application, the construction official will notify the tax assessor and request an initial calculation of the equalized assessed value (EAV) of the proposed development and the resulting fee to be posted. One-half of the fee will be due at the time of issuance of the first building permit. For non-residential development only, the developer will be provided a copy of Form N – RDF "State of New Jersey Non-Residential Development Certification/Exemption". This form will be used by the tax assessor to verify exemptions and to prepare estimated and final assessments.

At the time of request for the final inspection, the construction official will notify the tax assessor and request confirmation of, or modification of, the initial (EAV) as the case may be. The final (EAV) will be provided to the developer within ten (10) days of the request for final inspection. Payment of the fee will then become a condition of issuance of the certificate of occupancy.

(b) Distribution of Development Fee revenues:

A general description of the distribution of revenues is provided below:

The Hackensack Municipal Housing Liaison (MHL) forwards a requisition of affordability assistance and administrative costs (routine expenditures) and costs for municipally sponsored 100% affordable housing development (significant expenditures) to the Finance Department recommending the expenditure of development fee revenues as set forth in this Spending Plan. The Finance Department reviews the request for consistency with the Spending Plan.

Once a request is approved by the Finance Department, the request is presented to the City Council for approval. After receiving City Council approval, the City of Hackensack Administrator releases the requested revenue from the trust fund for the specific use.

4. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Fourth Round Projects

i. Rehabilitation Projects (NJ Rev Stat § 52:27D-329.2)

The City will continue to participate in the Bergen County Community Development Block Grant (CDBG) Program Home Improvement Program until the remaining rehabilitation obligation has been fully satisfied. The City further reserves the right to allocate funds for any hard costs associated with the maintenance of credibility for any surplus units from the City's Prior Round obligation used towards the City's Fourth Round Rehabilitation obligation. Additionally, the City will dedicate funds towards supplementing hard costs for the rehabilitation of a portion of the 593-unit Fourth Round Present Need Obligation to be rehabilitated through the County Program, in the case that the County requests or requires municipal funding or assistance. If no new construction projects move forward in Round 4, the entire allocated amount is used to meet the balance of the City's Present Need obligation of 422 units (593-171 credits = 422), which would allocate \$17,984 per unit toward rehabilitation. The City is not establishing its own rehabilitation program at this time. In the case that the County program is ever abandoned or loses its funding, the City shall amend the Spending Plan to fund a municipal rehabilitation program to be created and administered by an experienced Administrative Agent of the City's choosing. Alternatively, in the event that the County program sufficiently addresses the City's rehabilitation obligation, the City reserves the right to amend the Spending Plan to allocate funds to other affordable housing activities. A contribution of \$1,000,000 towards the 30-unit age-restricted development with a residency preference proposed by the Hackensack Housing Authority at the 60 Kansas Street property has been allocated as part of the Rehabilitation expenditures of the approved Third Round Spending Plan, and these funds therefore have not been allocated as part of the projected revenue available to be expended during the Fourth Round period.

ii. Costs Associated with the New Construction of Affordable Units (N.J.S.A. 52:27D-329.2)

The City will dedicate funding towards the new construction of affordable units during the Fourth Round period for projects set forth in the City's 2025 HEFSP or projects proposed while the Fourth Round progresses. Funds for the construction of new affordable units will be allocated on a project-by-project basis as a project realistically moves forward. Additional funding towards the project(s) will likely be sought through and be the subject of a 9-percent NJHMFA tax credit application or other funding source.

Total Fourth Round Projects Expenditure:

\$7,589,415

(b) Affordability Assistance (N.J.S.A. 52:27D-329.2)

The City of Hackensack is required to spend a minimum of 30 percent of development fee revenue to render units more affordable and at least one-third of that amount must be dedicated to very-low income households or to create very-low income units (i.e. households earning less than 30 percent of the regional median income). The actual affordability assistance minimums are calculated on an ongoing basis based on actual revenues.

TABLE 2: PROJECTED MINIMUM AFFORDABILITY ASSISTANCE REQUIREMENTS HACKENSACK, BERGEN COUNTY, NEW JERSEY		
Development fees and fees from Redevelopment Agreements projected through the Fourth Round (7/1/2025 - 6/30/2035)		\$10,999,180
Interest projected through the Fourth Round (7/1/2025 - 6/30/2035)	+	\$4,179,649
Total	=	\$15,178,831
PROJECTED MINIMUM FOURTH ROUND AFFORDABILITY ASSISTANCE REQUIREMENT (7/1/2025 - 6/30/2035)	x 0.30 =	\$4,553,650
PROJECTED MINIMUM FOURTH ROUND VERY LOW-INCOME AFFORDABILITY ASSISTANCE REQUIREMENT (7/1/2025 - 6/30/2035)	÷ 3 =	\$1,517,884

The City will dedicate at least \$4,553,650 from its municipal affordable housing trust fund to render units more affordable. Of this amount, \$1,517,884 will be utilized to encourage private sector provision of very low-income units through the offering of a subsidy for the development of said units. The City reserves the right to use even more of its affordability assistance funds to help subsidize low and/or very low-income units. In addition, the City will utilize such funds for any emergency repairs of older affordable units in the City, should that be necessary.

The City will dedicate Affordability Assistance funding from the affordable housing trust fund to render the units constructed in municipally sponsored 100% affordable projects to be more affordable; to provide a first month's rent and program for rental units; and to provide a down payment assistance program for for-sale units, as follows.

- i. Creation of very low-income units in municipally sponsored 100% affordable projects;
- ii. Supportive/Special Needs Assistance Direct Subsidy to create new units within the City with a 30-year deed restriction requirement;
- iii. Additional affordability assistance:
 - a. Rental Units:
 - i. One or two month's rent assistance program;
 - ii. Reimbursement for qualified moving expenses, up to \$1,000;
 - b. For-Sale Units:

- i. Down payment assistance up to \$15,000 per unit;
- ii. Emergency Repairs.

An Affordability Assistance Manual was approved by the Special Adjudicator and adopted by the City on December 10, 2024. The Administrative Agent will review the approved manual and revise it to reflect the amounts specified in this Fourth Round Spending Plan.

Total Affordability Assistance Expenditures: \$4,553,650

(c) **Administrative Expenses (N.J.S.A. 52:27D-329.2)**

The City of Hackensack may use development fee revenue for related administrative costs up to a 20 percent limitation pending funding availability after programmatic and statutory affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis based on actual revenues.

TABLE 3: PROJECTED MAXIMUM ADMINISTRATIVE EXPENSE REQUIREMENTS HACKENSACK, BERGEN COUNTY, NEW JERSEY		
Development fees and fees from Redevelopment Agreements projected through the Fourth Round (7/1/2025 - 6/30/2035)		\$10,999,180
Interest projected through the Fourth Round (7/1/2025 - 6/30/2035)	+	\$4,179,649
Total	=	\$15,178,831
PROJECTED FOURTH ROUND MAXIMUM ADMINISTRATIVE EXPENDITURES (7/1/2025 - 6/30/2035)	x 0.20 =	\$3,035,766

The City projects that no more than \$3,035,766 will be available from the affordable housing trust fund to be used for administrative purposes during the Fourth Round (July 1, 2025 – June 30, 2035). However, administrative expenses are limited to 20% of what is actually collected; therefore, the projected 20% cap of \$3,035,766 may only be expended in a total amount equaling 20% or less of the total revenue from development fees, Redevelopment Agreement fees, and interest at the time of expense.

Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- 1) Personnel wages, salaries, and benefits for administering affordable housing activities;
- 2) Consulting fees for the preparation of Housing Element/Fair Share Plans, assisting other affordable housing activities including, but not limited to, professional planner and professional engineer consultant fees;
- 3) Fees for other consulting activity as may be found necessary supportive of affordable housing provision, including office supplies;

- 4) Legal fees; and
- 3) Fees for the administration of Affordability Assistance programs by qualified entities retained by the City of Hackensack.

Total Administrative Expenditure: \$3,035,766

5. EXPENDITURE SCHEDULE

Upon approval by the Court, the City acknowledges that the expenditures of funds contemplated herein shall constitute the “commitment” for expenditure required pursuant to N.J.S.A. 52:27D-329.2, with the ten-year time period contemplated therein commencing in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff’d 442 N.J. Super. 563).

Where applicable, the funding schedule below parallels the proposed strategies presented thus far by the City, and is summarized as follows.

City of Hackensack

Spending Plan

TABLE 4: PROJECTED EXPENDITURE SCHEDULE AFFORDABLE HOUSING TRUST FUND JULY 1, 2025 – JUNE 30, 2035
HACKENSACK, BERGEN COUNTY, NEW JERSEY

		PROJECTED EXPENDITURE SCHEDULE – AFFORDABLE HOUSING TRUST FUND – JULY 1, 2025 THROUGH JUNE 30, 2035												
PROGRAM	NUMBER OF UNITS PROJECTED	JULY 1 2025 – DEC 31 2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	JUNE 30, 2035	FOURTH ROUND TOTAL EXPENDITURES (a)	
Fourth Round Projects	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	\$7,589,415	
Affordability Assistance		TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	\$4,553,650	
Administration		TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	\$3,035,766	
Total	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	\$15,178,831	

(a) Expenditures are not shown on an annual basis for the purposes of this expenditure schedule due to the fact that the timing and amount of expenditures, and consequently the change in trust fund balance, will impact the amount of interest collected on the account. Given that the 30% minimum affordability assistance expenditure requirement and 20% maximum administrative expenditure requirement are based on actual revenue, the expenditure schedule has been simplified to show total expenditures over the Fourth Round period to avoid misrepresentation of the availability of funds to be expended on an annual basis. This Spending Plan shall be subject to future amendment to represent the actual funds collected and expended throughout the progression of the Fourth Round.

6. EXCESS OR SHORTFALL OF FUNDS

The City of Hackensack acknowledges that the actual revenue collected may be less than what is projected in this Spending Plan for a variety of reasons, including, but not limited to: (a) a moratorium on collection of development fees may be imposed by law; and (b) the actual amount of development in the City may be less than what is anticipated. Should there be a shortfall of funds, the City agrees that in no event shall it utilize more than 20% of the revenue collected from development fees, Redevelopment Agreement fees, and interest for administration.

The City intends to expend all current and future revenues toward the mechanisms, including the funding of new construction projects, as described in this Spending Plan. In the event of an excess of funds, these would be dedicated toward supplementing any programs or projects within the regulatory limits as described herein. The City reserves the right to use the remainder first toward emerging mechanisms and for additional assistance where needed to support mechanisms included in the City's Housing Element and Fair Share Plan as needed, in accordance with the requirements set forth in P.L. 2024, c.2. Should there be a surplus beyond emerging mechanisms, et. al., the City reserves the right to use the remainder toward the next round of affordable housing, which will be addressed by an adopted Spending Plan in a timeframe that will satisfy the requirements of NJ Rev Stat § 52:27D-329.2. The City reserves the right to submit an updated Spending Plan to reflect any change in circumstance of the mechanisms and funds detailed herein.

II. SUMMARY

The City of Hackensack intends to spend Affordable Housing Trust Fund revenues pursuant to NJ Rev Stat § 52:27D-329.2 and consistent with the housing programs outlined in the Housing Element and Fair Share Plan that evolves from the City's ongoing compliance efforts.

The City recognizes that the projections in this Spending Plan are generated from a baseline assumption that development over the last five years will continue at a similar rate over the ten-year Fourth Round period, and the City therefore reserves the right to amend the contents of this Spending Plan to reflect a change in the City's development climate, Fourth Round HEFSP, Development Fee Ordinance, and/or any circumstance impacting the projections detailed herein.

The City of Hackensack had a balance of \$6,644,917.16 in its affordable housing trust fund as of March 31, 2025 and projects an additional \$324,944 in revenues for the remainder of the Third Round prospective need period, or April 1, 2025 to June 30, 2025. All funds collected during the Third Round shall be subject to use as allocated and approved in the amended Third Round Spending Plan, which was approved as part of the City's amended HEFSP by the amended Conditional JOR entered on October 2, 2024.

Regarding the Fourth Round period, the City projects approximately \$15,178,831 to be collected from development fees, Redevelopment Agreement fees, and interest on existing funds from July 1, 2025 through June 30, 2035. Of this projected \$15,178,831 to be collected during the Fourth Round, the City shall dedicate a minimum of 30% (or \$4,553,650) to render units more affordable and no more than 20% (or \$3,035,766) to cover administrative costs. The remainder (\$7,589,415) is intended to be used toward Fourth Round projects (which includes both rehabilitation projects and

new construction of affordable units), which will be allocated on a project-by-project basis as the specificity of these projects becomes more apparent over the Fourth Round period. The City anticipates that the balance of revenues collected less expenses from July 1, 2025 to June 30, 2035 will be as close to zero dollars (\$0) as possible whereas any excess funds would be dedicated toward supplementing any programs or projects within the limits as described herein, toward emerging mechanisms pursuant to NJ Rev Stat § 52:27D-329.2, or reserved toward compliance with the next round of affordable housing in accordance with the Fair Housing Act.

TABLE 5: FOURTH ROUND SPENDING PLAN SUMMARY HACKENSACK, BERGEN COUNTY, NEW JERSEY	
PROJECTED REVENUE 7/1/2025 – 6/30/2035	
Development fees and Redevelopment Agreement Fees	+ \$10,999,180
Interest on existing funds	+ \$4,179,649
TOTAL PROJECTED REVENUE 7/1/2025 – 6/30/2035	= \$15,178,831
PROJECTED EXPENDITURES 7/1/2025 – 6/30/2035	
Funds Towards Fourth Round Projects	- \$7,589,415
Affordability Assistance	- \$4,553,650
Administration	- \$3,035,766
TOTAL PROJECTED EXPENDITURES 7/1/2025 – 6/30/2035	= \$15,178,831
REMAINING BALANCE	= \$0.00