

**RESOLUTION R-25-400**  
**TOWNSHIP OF MONTCLAIR**

**RESOLUTION APPROVING MEDIATION AGREEMENT WITH FAIR SHARE HOUSING CENTER IN A DECLARATORY ACTION FILED BY THE TOWNSHIP OF MONTCLAIR "IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF MONTCLAIR" COUNTY OF ESSEX, DOCKET NO. ESX-L-297-25 PURSUANT TO DIRECTIVE #14-24 SEEKING APPROVAL OF ITS RESOLUTION 25-004 AND OTHER RELIEF PURSUANT TO P.L. 2024, C.2 (AMENDMENTS TO THE 1985 NEW JERSEY FAIR HOUSING ACT)**

December 29, 2025

**WHEREAS**, Township of Montclair, pursuant to Fair Share Housing Center's ("FSHC") Directive #14-24, filed a declaratory action in "IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF MONTCLAIR, COUNTY OF ESSEX, DOCKET NO. ESX-L-297-25 ("ACTION"); and

**WHEREAS**, the FSHC filed a challenge to same solely seeking sufficient documentation from the Township of Montclair to demonstrate the Housing Element and Fair Share Plan complies with the Fair Housing Act and Mount Laurel Doctrine; and

**WHEREAS**, the Township and FSHC have agreed to amicably resolve the issues set forth in the challenge, which if approved will result in a compliance certification for the Township of Montclair with respect to the Township's Fourth Round Affordable Housing Obligations; and

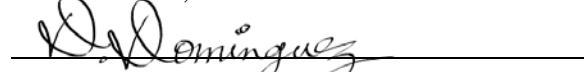
**WHEREAS**, the Mayor and Council for the Township of Montclair has been advised by its Affordable Housing Attorneys and Interim Township Attorney that the proposed settlement is fair, reasonable, and in the best interests of the Township of Montclair; and

**NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:**

1. The Mediation Agreement between FSHC and the Township of Montclair, substantially in the form presented and attached hereto, is hereby approved.
2. The Mayor, Township Administrator, Planner, and/or its Affordable Housing Attorneys are hereby authorized to take all actions for approval and implementation of the Mediation Agreement and conditions as set forth therein prior to March 15, 2026.
3. This Resolution shall take effect immediately.

<b>RECORD OF COUNCIL VOTE</b>						
COUNCIL MEMBER	MOVANT	SECOND	YES	NO	ABSTAIN	ABSENT
<b>Deputy Mayor Andersen</b>			✓			
<b>Councilor Birmingham</b>			✓			
<b>Councilor D'Amato</b>			✓			
<b>Councilor Harrison</b>	✓		✓			
<b>Councilor Toler</b>				✓		
<b>Councilor Williams</b>			✓			
<b>Mayor Baskerville</b>		✓	✓			

**I HEREBY CERTIFY** the foregoing to be a true copy of Resolution R-25-400 adopted by the Mayor and Council of the Township of Montclair, in the County of Essex, at its meeting held on December 29, 2025.

  
 Denise Dominguez, Deputy Township Clerk

**MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE  
RESOLUTION PROGRAM**

In the Matter of the Application of the Township of Montclair, County of Essex  
Docket No. ESX-L-297-25

**WHEREAS**, the Township of Montclair (the “Township” or “Montclair”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. Seq. (the “Fair Housing Act”) on January 13, 2025; and

**WHEREAS**, the Court entered an order on March 24, 2025, setting the Township’s Fourth Round fair share obligations as a Present Need of 132 units and a Prospective Need of 0 units, which no party appealed, and ordering the Township to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

**WHEREAS**, the Township having filed its HEFSP on June 25, 2025 (“Adopted HEFSP”); and

**WHEREAS**, FSHC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Township’s HEFSP on August 27, 2025; and

**WHEREAS**, Sarah Avery having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Township’s HEFSP on August 28, 2025; and

**WHEREAS**, the Township and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Township for the Fourth Round; and

**WHEREAS**, the Township Council approved Resolution No. X authorizing the Township's settlement resolution with FSHC at a special meeting held on December 29, 2025.

**THEREFORE**, the Township and FSHC agree:

### **Fair Share Obligations**

1. The Township's Present Need or Rehabilitation Obligation is 132, the Township's Prior Round Obligation (1987-1999) is 0, the Township's Third Round Obligation (1999-2025) is 162 prospective need units and 127 rehabilitation units, the Township's Fourth Round Prospective Need (2025-2035) is 0.

### **Satisfaction of Fair Share Obligations**

1. The Township Third Round obligation was addressed with the following mechanisms:

**Table 28: 2009 Fair Share Plan – Prospective Need  
Township of Montclair, Essex County, New Jersey**

Program	Project	Type	Units	Bonus	Total
Redevelopment	Siena	Family Ownership	10	0	10
	Alister	Family Rental	17	17	34
Inclusionary Development	69-83 Bay Street	Family Ownership	1	0	1
	24 Elm Street	Family Ownership	2	0	2
Gut Rehabilitation	The Montclarion	Family Rental	18	0	18
	19 Elmwood	Family Rental	2	0	2
	58 Maple Avenue	Family Rental	2	0	2
	43 Glenridge Avenue	Family Rental	2	2	4
	55 Glenridge Avenue	Family Rental	6	6	12
	14 Mission Street	Family Sale w/Rental	2	0	2
	24 Mission Street	Family Sale w/Rental	2	1	3
	25 Mission Street	Family Sale w/Rental	2	0	2
	53 Mission Street	Family Sale w/Rental	2	0	2
	59 Mission Street	Family Sale w/Rental	2	0	2
	62 Mission Street	Family Sale w/Rental	3	0	3
	68 Elmwood Avenue	Family Sale w/Rental	2	0	2
	16 Miller Street	Family Sale	1	0	1
100% Affordable	24 Miller Street	Family Sale w/Rental	2	0	2
	26 Miller Street	Family Sale w/Rental	2	1	3
Senior Housing	25 William Street	Family Rental	3	3	6
	33 William Street	Family Rental	5	5	10
Alternative Living Arrangements	53-55 New Street	Family Ownership	4	0	4
	Pine Ridge of Montclair	Age Restricted	40	0	40
Alternative Living Arrangements	ARC of Essex County	Supportive/Special Needs	10	2.5	12.5
	Covenant House	Supportive/Special Needs	8	2	10
<b>TOTAL</b>			<b>150</b>	<b>40</b>	<b>190</b>

The Township has 143 units of affordable housing that exceed the Third Round Prospective Need obligation and can be applied to future obligations, if applicable:

**Table 29: Excess Affordable Housing Credits  
Township of Montclair, Essex County, New Jersey**

Project	# of Units	Type	Mechanism
Valley and Bloom	26	Family Rental	Redevelopment
Montclarion II	2	Family Rental	Redevelopment
The Vestry	8	Family Rental	Redevelopment
Two South Willow	20	Family Rental	Redevelopment
The Clair	4	Family Rental	Redevelopment
59 Church Street	8	Family Rental	Redevelopment
58 James Street	1	Family Sales	IZO
The Westerly	2	Family Rental	IZO
57 James Street	1	Family Rental	IZO
161-167 Glenridge Avenue	2	Family Rental	IZO
10 Elm Street	4	Family Rental	IZO
Talbot Village	6	Family Sales	100% Affordable
7 Sylvan Place	2	Family Rental	IZO
14 North Willow Street	2	Family Rental	Market to Aff
Mental Health Association	12	Special Needs	Supportive Housing
27 Miller Street	1	Family Rental	Extension of Controls
12 Miller Street	2	Family Rental	Extension of Controls
Miller Street Cottages	5	Family Rental	Extension of Controls
Miller Street Homes	9	Family Rental	Extension of Controls
The Mews	20	Family Sales	Extension of Controls
Montclarion I	6	Family Rental	Extension of Controls
<b>Total</b>	<b>143</b>		

2. The Township received an Order of Compliance in 2019. Since that time the Township has constructed the following affordable housing mechanisms and provided supporting compliance documentation:

**Table 1: Affordable Housing Projects Completed after January 1, 2019**

Project Name	Address	# of Units	Status	Type	
Montclarion II	125 Bloomfield Ave	2	Complete	Rental	2049
	58 James Street	1	Complete	Sales	2049
The Westerly	256 Park Street	2	Complete	Rental	2050
The Vestry	147 Bloomfield Ave	8	Complete	Rental	2050
Two South Willow	2 South Willow Street	20	Complete	Rental	2051
7 Sylvan Place	7 Sylvan Place	2	Complete	Rental	2052
	57 James Street	1	Complete	Rental	2052
The Clair	37 Orange Road	4	Complete	Rental	2054
<b>Total</b>		<b>40</b>			

3. The Township continues to address future affordable housing obligations and has proposed the following mechanisms in more detail in the May 19, 2025 Housing Element and Fair Share Plan:

**Table 33: Affordable Housing Projection Summary**

<b>Program</b>	<b>Number of Affordable Units</b>
<b>Redevelopment</b>	104
<b>Township-Owned or Leased Land</b>	16
<b>100% Affordable Housing</b>	10
<b>Faith-Based Organizations</b>	6
<b>Supportive/Special Needs Housing</b>	28
<b>Extension of Affordability Controls</b>	40
<b>Accessory Dwelling Units</b>	5
<b>Total</b>	209

4. The Township has provided additional information on the Extension of Affordability Controls in an October 8, 2025 supplemental submission to the Affordable Housing Dispute Resolution Program:

**Table 2: Extension of Affordability Controls – Montclair Mews Sales Units**  
**Township of Montclair, Essex County, New Jersey**

Address	Number of Units	Year Built	Initial Deed Restriction Term	Date Aff. Controls Ended	Date Aff. Controls Extended	New Deed Rest. Term	End Date for Aff. Controls	Date of Inspection
<b>Unit 317*</b>	1	4/6/1989	20 years	4/6/2009	8/28/2014	30 years	8/28/2044	
<b>Unit 319</b>	1	5/22/1989	20 years	5/22/2009	3/4/2016	30 years	5/22/2039	3/29/2017
<b>Unit 320</b>	1	9/21/1989	20 years	9/21/2009	3/8/2016	30 years	9/21/2039	3/29/2017
<b>Unit 322*</b>	1	3/31/1989	20 years	3/31/2009	7/12/2012	30 years	7/12/2042	
<b>Unit 323</b>	1	8/10/1989	20 years	8/10/2009	6/6/2016	30 years	8/1/2039	7/18/2016
<b>Unit 324</b>	1	6/21/1989	20 years	6/21/2009	8/30/2016	30 years	6/21/2039	4/10/2017
<b>Unit 325</b>	1	6/12/1989	20 years	6/12/2009	8/30/2016	30 years	6/12/2039	4/10/2017
<b>Unit 326*</b>	1	6/16/1989	20 years	6/16/2009	6/7/2014	30 years	6/7/2043	
<b>Unit 6A2</b>	1	2/25/1994	20 years	2/25/2014	8/29/2016	30 years	2/25/2044	8/29/2016
<b>Unit 6C2</b>	1	2/23/1994	20 years	2/23/2014	3/21/2016	30 years	2/23/2044	4/4/2017
<b>Unit 6D1</b>	1	2/23/1994	20 years	2/23/2014	4/7/2016	30 years	11/17/2044	4/7/2016
<b>Unit 6D2</b>	1	2/25/1994	20 years	2/25/2014	3/14/2016	30 years	2/25/2044	3/14/2016
<b>Unit 6E1</b>	1	2/25/1994	20 years	2/25/2014	2/11/2016	30 years	2/25/2044	2/17/2016
<b>Unit 6G1</b>	1	2/24/1994	20 years	2/24/2014	5/20/2016	30 years	2/24/2044	5/23/2016
<b>Unit 6G2</b>	1	2/22/1994	20 years	2/22/2014	6/2/2016	30 years	2/22/2044	6/7/2016
<b>Unit 6H2</b>	1	2/24/1994	20 years	2/24/2014	1/25/2016	30 years	2/24/2044	1/28/2016
<b>Unit 6J1</b>	1	2/25/1994	20 years	2/25/2014	8/19/2016	30 years	2/25/2044	3/29/2017
<b>Unit 6J2</b>	1	2/23/1994	20 years	2/23/2014	2/9/2016	30 years	2/23/2044	9/17/2016
<b>Unit 6K1</b>	1	2/24/1994	20 years	2/24/2014	6/7/2016	30 years	2/24/2044	1/23/2017
<b>Unit 6L1</b>	1	2/24/1994	20 years	2/24/2014	8/24/2016	30 years	2/24/2044	8/29/2016
<b>Total</b>	20							

\*The Township purchased these units under the 95/5 regulations, made minor improvements and sold the units to an income-eligible household with a new 30 year deed restriction.

**Table 3: Extension of Affordability Controls – Rental Units**  
**Township of Montclair, Essex County, New Jersey**

Project	Address	# of Units	Year Built/ Rehabilitated	Program/Financing Source	Initial Deed Restriction Term	Date Aff. Controls Ended	Date Aff. Controls Extended	New Deed Rest. Term	End Date for Aff. Controls
<b>12 Miller Street</b>	12 Miller Street	2	1996	DCA HOME Nbhd Rehab Imp Program	10 years	2006	7/17/2017	50 years	7/17/2067
<b>Miller Street Cottages</b>	17 - 27 Miller St	6	1996	DCA HOME Nbhd Rehab Imp Program	14 years	10/19/2009	7/17/2017	50 years	7/17/2067
<b>Miller Street Homes</b>	9 - 15 Miller St	9	10/20/1989	DCA	20 years	10/20/2009	7/17/2017	50 years	7/17/2067
<b>Montclarion I</b>	10 Pine Street	6	12/19/1989	HMFA	30 years	1/1/2019	2/14/2017	30 years	1/1/2049
<b>Total</b>		23							

**Table 4: Properties with Expiring Affordability Controls  
Township of Montclair, Essex County, New Jersey**

Project	Total	Status	Type	Date Purchased	Program	Date Affordability Controls Expire
25 William Street	3	Complete	Rental	2006	DCA HOME	2021
33 William Street	5	Complete	Rental	2006	DCA HOME	2021
4 Washington Street	9	Complete	Rental	2011	Essex County HOME	2026
43 Glenridge Avenue	2	Complete	Rental	2004	DCA HOME	2034
55 Glenridge Avenue	6	Complete	Rental	2007	DCA HOME	2037
<b>Total</b>	<b>25</b>					

5. The Township has proposed excess credits towards future rounds with the following mechanisms:

**Table 5: Excess Affordable Housing Credits  
Township of Montclair, Essex County, New Jersey**

Project	Address	# of Units	Type	Year Completed	Deed Restriction Term	Status
14 North Willow Street	14 North Willow Street	2	Family Rental	2011	2041	Completed
Talbot Village	29-33 Talbot Street	6	Family Sales	2014	2113	Completed
Valley and Bloom	34-36 Valley Road	26	Family Rental	2017	2047	Completed
Mental Health Association	360 Orange Road	12	Special Needs	2019	NA	Completed
59 Church Street	59 Church Street	8	Family Rental			Under construction
10 Elm Street	10 Elm Street	4	Family Rental			Under construction
161-167 Glenridge Avenue	161-167 Glenridge Ave	2	Family Rental			Under construction
<b>Total</b>		<b>60</b>				

### **Affordable Unit Requirements**

6. The Township and FSHC agree that the Township's HEFSP as presented above satisfies the following standards set forth in P.L. 2024, c. 2, including but not limited to, with respect to the following, and that the Township shall maintain satisfaction with such requirements for the Fourth Round:

- a. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311(a) and (b), and all other applicable law.
- b. For all credits claimed from the extension of controls on affordable units, sufficient information must be provided including the year the project was built and the exact date of the extension. The Township must address how these credits comply with

N.J.A.C. 5:97-6.14 as well any applicable UHAC requirements in existence at the time the Township completed the extension of controls.

- c. All Prior Round and Third Round compliance shall continue to meet with the applicable percentages and standards for bonuses, family and senior housing, rental and family rental, very low-income units, and adaptability set forth in any statutory requirements, and the Prior Round and Third Round regulations.

7. In all developments that produce affordable housing, the Township and FSHC agree that, unless varied by a prior court order of the trial court, the below terms shall apply:

- a. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), including but not limited to the required bedroom and income distribution, length of affordability controls, and phasing of affordable units.
- b. The applicability of the updated form of UHAC versus the prior form of UHAC shall be as set forth in the statute and most current form of UHAC adopted by HMFA. Any terms of a prior agreement, judgment, or grant of substantive certification as to prior round of obligations modifying UHAC as to affordability controls longer than the now current regulations or as to very low-income units shall remain in effect as to those prior rounds of obligations.
- c. The Township agrees to review its Affordable Housing Ordinance and other ordinances to ensure that it complies with the most up to date requirements of UHAC and revise those ordinances accordingly as part of its Fourth Round HEFSP and implementing ordinances.

The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law. The affirmative marketing plan shall include the following community and regional organizations: FSHC; the Latino Action Network; the New Jersey State Conference of the NAACP; East Orange NAACP; Newark NAACP; Morris County NAACP; Elizabeth NAACP; and the Supportive Housing Association.

### **Process for Approval and Implementation**

8. Pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, the municipality and FSHC recognize that the Program and/or county level housing judge must still review this agreement and the resulting HEFSP and implementing ordinances and resolutions for compliance with the Fair Housing Act prior to issuing a compliance certification, as follows:
  - a. The Township and FSHC shall present this mediation agreement to the Program member for review upon full execution by both parties.
  - b. The Program Member shall review the agreement and if satisfied with compliance with the Fair Housing Act shall refer this matter to the Mount Laurel judge for review and entry of certification of compliance, conditioned on the terms of paragraph 7 and adoption of all implementing ordinances and resolutions.
  - c. The Township shall adopt all implementing ordinances and resolutions no later than March 15, 2026, including but not limited to the outstanding items identified in the next paragraph. By March 15, 2026, the Township shall file the information required by Paragraph 7 and any other adopted ordinances and resolutions on eCourts.

- d. No later than April 15, 2026, the Township and FSHC shall provide via filing on eCourts a form of consent order granting final compliance certification for the Court's review or identify any remaining issues of compliance that may be disputed at which point the court shall schedule a conference to review any such areas.
- e. Both parties agree to implement the terms of this Agreement. If the Program, county level housing judge, or any appellate court rejects this Agreement, the parties reserve their right to rescind any action taken in anticipation of the Program's approval and return to status quo ante. All parties shall have an obligation to fulfill the intent and purpose of this Agreement, unless to do so would be inconsistent with the final, unappealable adjudication of any Program or court ruling or judgment. The terms of this agreement may be enforced through an enforcement motion in this declaratory judgment or a separate action before the Program or the Superior Court, Law Division.

9. The Township and FSHC agree that following conditions remain to be met prior to March 15, 2026 as conditions of compliance certification, and that the municipality shall provide these documents to FSHC in draft form for comment by February 1, 2026:

- a. The Township agrees to allow FSHC until January 31, 2026 to review all supporting crediting documentation and provide FSHC with any additional supporting documentation as necessary.
- b. The Township will adopt a Fourth Round Spending Plan in accordance with P.L. 2024, c. 2 and the recently published regulations at N.J.A.C. 5:99. No extraneous funds may be used in the calculation of the administrative expense maximum,

including interest on development fees or development fee revenue that was previously allocated in a prior Spending Plan.

- c. The Township will update and adopt its affordable housing ordinance, development fee ordinance, affirmative marketing plan, and other administrative documents in accordance with the regulations at N.J.A.C. 5:80-26.1, et seq., and N.J.A.C. 5:99 before March 15, 2026.

10. The Township's Compliance Certification shall be subject to required ongoing monitoring as follows:

- a. The Township by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of a detailed accounting of all development fees and any other payments into its trust fund that have been collected including residential and non-residential development fees, along with the current balance in the municipality's affordable housing trust fund as well as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1<sup>st</sup> to December 31<sup>st</sup>.
- b. The Township by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of up-to-date municipal information concerning the number of affordable housing units actually constructed, construction starts, certificates of occupancy granted, and the start and expiration dates of deed restrictions. With respect to units actually constructed, the information shall specify the characteristics of the housing, including housing type, tenure, affordability level, number of bedrooms, date and expiration of affordability

controls, and whether occupancy is reserved for families, senior citizens, or other special populations.

- c. For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the Township or other interested party may file an action through the program seeking a realistic opportunity review and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site in the housing element and fair share plan that has not received preliminary site plan approval prior to the midpoint of the 10-year round. Any such filing shall be through eCourts or any similar system set forth by the Program with notice to any party that has appeared in this matter.

11. This Agreement may be executed in counterparts, all of which together shall constitute the same agreement, and any exhibits or schedules attached hereto shall be hereby made a part of this Agreement. This Agreement shall not be modified, amended or altered in any way except by a writing signed by each of the parties. Each party acknowledges that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each signatory is the proper person and possesses the authority to sign the Agreement, and that this Agreement was not drafted by any one of the parties, but was drafted, negotiated and reviewed by all parties, therefore, the presumption of resolving ambiguities against the drafter shall not apply. 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. No member, official or employee of the municipality shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

On behalf of the Township of Montclair:

On behalf of Fair Share Housing Center:

Date:

Date:

4906-8919-3090, v. 1