

OFFERED BY: SHUTZER					SECONDED BY: DiBENEDETTO				
	AYE	NAY	ABSENT	ABSTAIN		AYE	NAY	ABSENT	ABSTAIN
DI BENEDETTO	X				REICH	X			
FRIEDMAN	X				ROGERS	X			
JORDAN	X				SHUTZER	X			

I, TRACI L. DIBENEDETTO, CLERK OF THE BOROUGH OF FREEHOLD, DO HEREBY CERTIFY THE FOLLOWING RESOLUTION WAS ADOPTED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF FREEHOLD AT A MEETING HELD ON MARCH 2, 2026.

TRACI L. DIBENEDETTO, RMC
BOROUGH CLERK

Resolution No. 68-26
Agenda #5/2026

**RESOLUTION OF THE BOROUGH OF FREEHOLD
ENDORING THE BOROUGH’S AMENDED THIRD AND FOURTH ROUND
HOUSING ELEMENT AND FAIR SHARE PLAN**

WHEREAS, the New Jersey Supreme Court declared that the discriminatory use of zoning powers was illegal and provided, as a matter of constitutional law, that each developing municipality “must, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there, of course including those of low and moderate income,” In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1, 6 (2015) (“**Mount Laurel IV**”), citing S. Burlington County NAACP v. Township of Mount Laurel (“**Mount Laurel I**”), 67 N.J. 151, 179, 187, appeal dismissed and cert. denied, 423 U.S. 808, 96 S. Ct. 18, 46 L. Ed. 2d 28 (1975), and that this constitutional obligation requires that towns must provide “a realistic opportunity for the construction of [their] fair share of the present and prospective regional need for low and moderate income housing,” Id., citing S. Burlington County NAACP v. Township of Mount Laurel (“**Mount Laurel II**”), 92 N.J. 158, 205 (1983), (together with Mount Laurel I, the “**Mount Laurel Doctrine**”); and

WHEREAS, pursuant to Mount Laurel IV, the Borough of Freehold (the “**Borough**”) filed a declaratory judgment action on March 16, 2022, entitled “*In the Matter of the Application of the Borough of Freehold*, Docket No. MON-L-759-22 (the “**DJ Action**”), seeking a judicial declaration that its Housing Element and Fair Share Plan satisfied the Third Round “fair share” of the regional need for very low - low- and moderate-income housing, pursuant to the Mount Laurel Doctrine; and

WHEREAS, on March 20, 2024, Governor Murphy signed P.L.2024, c.2. (hereinafter “**A4**”) into law, amending the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 to -329 (the “**Act**”) and establishing a new framework for determining and enforcing municipalities’ affordable housing obligations under the Mount Laurel doctrine for the years 2025 – 2035 (the “**Fourth Round**”); and

WHEREAS, A4 required the New Jersey Department of Community Affairs (the “**DCA**”) to produce non-binding estimates of need for present and prospective need for very low-, low- and

moderate- income housing in each municipality for the Fourth Round on or before October 20, 2024; and

WHEREAS, on October 18, 2024, in furtherance of such requirement, the DCA issued a report entitled “Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background” (the “**DCA Report**”) which report established the final calculation and obligations for each municipality in New Jersey, including the Borough; and

WHEREAS, the DCA Report calculated the Borough’s Fourth Round obligation as follows: a Present Need or Rehabilitation Obligation of 270 and a Prospective Need or New Construction Obligation of 49; and

WHEREAS, on January 21, 2025, the Borough Council adopted Resolution No. 39-25 (the “**Binding Resolution**”), accepting the obligation as set forth in the DCA Report; and

WHEREAS, pursuant to the Administrative Directive #14-24, dated December 13, 2024 (the “**Directive**”), implementing the Affordable Housing Dispute Resolution Program (the “**Program**”) on January 23, 2025, the Borough filed a declaratory judgment action in the Superior Court of Monmouth County, bearing Docket No. MON-L-294-25 (the “**Fourth Round DJ Action**”); and

WHEREAS, the filing of the Fourth Round DJ Action, in accordance with the Act and the Directive, gave the Borough continued immunity from Builder’s Remedy lawsuits, which continues to be in full force and effect; and

WHEREAS, no interested party filed a challenge to the Fourth Round DJ Action; and

WHEREAS, on April 24, 2025, the Honorable Linda Grasso Jones, J.S.C., the designated Mount Laurel Judge for the Monmouth Vicinage, entered an order setting the Borough’s Present Need Obligation as 270 and the Prospective Need Obligation as 49, as set forth in the Binding Resolution; and

WHEREAS, as part of the DJ Actions, in accordance with the Act and the Binding Resolution, the Borough’s Planning Consultant, Topology, (the “**Borough Planner**”) prepared a Housing Element and Fair Share Plan which is on file with the Borough Clerk which addresses the Borough’s Present Need and Prospective Need Obligations for the Third and Fourth Rounds (“**Original HEFSP**”); and

WHEREAS, pursuant to N.J.S.A. 40:55D-28, the Planning Board of the Borough (the “**Planning Board**”) is charged with the preparation and adoption of the Borough’s Master Plan, which includes the Original HEFSP; and

WHEREAS, on June 11, 2025, after providing notice in accordance with the Municipal Land Use Law, specifically N.J.S.A. 40:55D-13 (the “**MLUL**”), the Planning Board held a public

hearing to review the Original HEFSP prepared by the Borough Planner, which was continued and carried, as set forth on the record, to June 25, 2025; and

WHEREAS, after review and consideration of the Original HEFSP and presentation by the Borough Planner, the Planning Board determined the Original HEFSP is consistent with the goals and objectives of the Borough's current Master Plan, and further determined adoption of the same was in the best interest of the Borough; and

WHEREAS, the Borough Council adopted a resolution endorsing the Original HEFSP on July 14, 2025; and

WHEREAS, the Borough Planner prepared an amendment to the Original HEFSP, which is on file with the Borough Clerk, in accordance with the terms of a settlement agreement and Consent Order with Fair Share Housing Center (the "HEFSP"); and

WHEREAS, on February 25, 2026, after providing notice in accordance with the MLUL, the Planning Board held a public hearing to review the HEFSP prepared by the Borough Planner; and

WHEREAS, after review and consideration of the HEFSP and presentation by the Borough Planner, the Planning Board determined the HEFSP is consistent with the goals and objectives of the Borough's current Master Plan, and adopted the HEFSP; and

WHEREAS, pursuant to the Directive, a resolution of the governing body must be adopted endorsing the HEFSP in order to seek a Final Judgment of Compliance and Repose; and

WHEREAS, after review and consideration of the HEFSP, the Borough desires to endorse the HEFSP, as adopted by the Borough's Planning Board.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Freehold, in the County of Monmouth, New Jersey, as follows:

Section 1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

Section 2. The Borough's Council endorses the HEFSP as prepared by the Borough Planner, on file with the Borough Clerk, and adopted by the Planning Board.

Section 3. The Borough authorizes its professionals to file a copy of this Resolution, as well as a copy of the endorsed HEFSP with the Program.

Section 4. This resolution shall take effect immediately.