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

In the Matter of the Township of Wall, County of Monmouth,
Docket No. MON-L-5604-05

THIS AMENDED SETTLEMENT AGREEMENT ("Agreement") made this 18th day of December, 2019, by and between:

TOWNSHIP OF WALL, a municipal corporation of the State of New Jersey, County of Monmouth, having an address at 2700 Allaire Road, Wall, New Jersey 07719 (hereinafter the "Township" or "Wall Township");

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 Township filed the above-captioned matter on July 2, 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 Township simultaneously sought and ultimately secured an Order protecting the Township from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

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

WHEREAS, the Trial Court appointed Francis J. Banisch, III, P.P., A.I.C.P., as the "Special Master" in this case as is customary in Mount Laurel matters; and

WHEREAS, with Mr. Banisch's assistance, Wall Township and FSHC engaged in good faith negotiations and reached an amicable accord on the various substantive provisions, terms and conditions, which were agreed to in a Settlement Agreement that was entered into on July 26, 2019 (hereinafter "July 2019 Settlement Agreement"); and

WHEREAS, after the July 2019 Settlement Agreement was executed, it was submitted to the Court, and a Fairness Hearing was scheduled to be held on October 18, 2019 for the Court to consider approval of the July 2019 Settlement Agreement; and

WHEREAS, Edgewood Properties, Inc. (hereinafter "Edgwood") approached the Township several years ago about including a 250-unit inclusionary project (hereinafter the "Edgewood Project") in the Township's Housing Element and Fair Share Plan; and

WHEREAS, at the request of Edgwood, the Edgewood Project was included in the July 2019 Settlement Agreement; and

WHEREAS, on September 25, 2019, Edgewood sent a letter to the Court objecting to the approval of the July 2019 Settlement Agreement; and

WHEREAS, the Fairness Hearing was adjourned by the Court on October 18, 2019 so that the Township and FSHC would have time to amend the July 2019 Settlement Agreement to address the fifty (50) unit gap in affordable family rental units caused by the loss of the Edgewood Project; and

WHEREAS, this Amended Settlement Agreement replaces the July 2019 Settlement Agreement in its entirety; and

WHEREAS, through that process, the Township 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 continued litigation and eventual trial, while establishing an exact number of affordable units to be produced that will not be subject to other rulings or interpretations and allowing the production of those homes to move forward instead of continued litigation; 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; and

WHEREAS, the Township has asserted as part of defining its objectives in settling this litigation that it has long engaged in a comprehensive approach to development, and it is the Township's intent to protect environmentally sensitive areas, concentrate sustainable development, preserve farmland and open space, provide reasonable buffers to promote smart growth in a sustainable manner and comply with its obligation to provide affordable housing; and

WHEREAS, the Township has adopted an Open Space and Recreation Plan (OSRP) prepared in accordance with the Green Acres Open Space and Recreation guidelines including a list of potential preservation sites to expand the active and passive recreation areas within Wall Township; and

WHEREAS, the Township also asserted as part of defining its objectives in settling this litigation that it has worked in concert with state and regional planning agencies to advance the broader policy objectives of those agencies as reflected in, among other things wastewater management plans endorsed by the N.J. Department of Environmental Protection (NJDEP), the New Jersey State Plan, and the Monmouth County Growth Management Guide; and

WHEREAS, in developing its affordable housing plan, the Township has endeavored to select sites that address its fair share obligations in a way that is consistent with its overall approach to development, which is to exercise sound comprehensive planning principals and concepts; and

WHEREAS, through the use of such planning concepts, the Township has developed a plan that not only satisfies its affordable housing obligations, but simultaneously addresses other land use and development issues, challenges, goals, and objectives.

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

1. FSHC agrees that the Township, through the adoption of a Fair Share Plan conforming with the terms of this Settlement, and through the implementation of the Plan and this Settlement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Round 3 (1999-2025).

2. FSHC and the Township hereby agree that Wall Township's affordable housing obligations are as follows:

Rehabilitation Obligation	114
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	1,073
Round 3 Obligation (1999-2025)	1,250

3. The Parties agree to the terms in this Agreement solely for purposes of settlement of this action.

4. The Parties acknowledge that multiple experts have extrapolated the methodology that Judge Jacobson utilized in her decision issued on March 8, 2018 and found that methodology, if applied to Monmouth County, would have resulted in the Township's Round 3 obligation being 1,512. The Parties also acknowledge that if a methodology trial were held in Monmouth County the number could have been found to be even higher than 1,512. The Parties also acknowledge that the Township may have been able to reduce its Round 3 fair share obligation down to 1,000 if it had prevailed on its motion involving the 1,000-unit cap law (N.J.S.A. 52:27D-307e.), and that FSHC may also have been able to seek a higher obligation if it had prevailed in its opposition to the Township's motion, but in the interests of settlement and achieving certainty, the parties have instead decided to agree upon a Round 3 fair share obligation of 1,250.

5. FSHC and the Township agree that Wall Township does not accept the basis of the methodology or calculations proffered by FSHC's consultant, David N. Kinsey, PhD, P.P., F.A.I.C.P. Although the Township does not accept the basis of the methodology or calculations proffered by FSHC's consultant, FSHC contends, and is free to take the position before the Court, that the 1,250-unit Round 3 obligation should be accepted by the Court, because it is based on the Prior Round methodology and reflects a reduction of Dr. Kinsey's July 2016 and April 2017 calculation of the Township's Round 3 (1999-2025) fair share obligation.

6. FSHC and the Township agree that the Township's Round 3 (1999-2025) fair share obligation of 1,250, will neither be adjusted upwards or downwards as a result of any subsequent changes in the law regarding the 1,000-unit cap (N.J.S.A. 52:27D-307e.), or through a subsequent determination of fair share obligations for Round 3 by the Judiciary, the Legislature, or any administrative subdivision of the Executive Branch, including, but not limited to, the Council on Affordable Housing (COAH). The reduction or increase of the Township's obligation below or above what is established in this Agreement through any application of law 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.

7. **Satisfaction of Rehabilitation Obligation**: The Township has a 114-unit Rehabilitation Obligation, and has/shall satisfy that obligation as follows:

a) The Township retained Affordable Housing Alliance to serve as the Township's Administrative Agent and to run a rehabilitation program utilizing funds from the Township's Affordable Housing Trust Fund, which were allowed to be expended under a Prior Round COAH approved Spending Plan.

b) Since the hiring of Affordable Housing Alliance, that entity has rehabilitated three (3) units. All are creditworthy as they were all completed after April of 2010, and the Court Master shall verify their credits as part of the compliance process.

c) In addition, at least sixteen (16) additional units have been rehabilitated in Wall Township through the Monmouth County Rehabilitation Program since April of 2010, and the Court Master shall verify these credits as part of the compliance process.

d) The Township will continue to implement its successful local rehabilitation program, including ensuring during the compliance phase of this litigation that the Affordable Housing Alliance program is available to rehabilitate both renter- and owner-occupied properties, and work with the Monmouth County program to address its remaining rehabilitation obligation of 95.

e) In addition, the Township may conduct a housing conditions survey, as is allowed by COAH regulations (see N.J.A.C. 5:93 Appendix C), to try to reduce its Rehabilitation Obligation, subject to review by the Court Master and FSHC prior to the final Compliance Hearing and approval by the Court at that hearing.

8. **Satisfaction of Prior Round Obligation**: Wall Township has a 1,073-unit Prior Round obligation, and has fully satisfied that obligation as follows:

Prior Round Obligation Compliance Mechanisms	Block/Lot	Units	Bonus Credits	Credits Toward Prior Round Obligation	Status
Prior Cycle Credits					

Miller Group Home	Block 913, Lot 23	7	0	7	Built
Inclusionary Housing Developments					
Bearmore Mobile Home Park Expansion	Block 72, Lot 5	37	0	37	Built
100% Affordable Housing					
Collingwood Mews	Block 907, Lot 17.02	110	110	220	Built
Presbyterian Homes, Waterford Glen, Allaire Crossing (Age Restricted Rentals)	Block 274, Lot 22	59	19	78	Built
Scattered Single-Family Sites	Various	12	0	12	Built
Market to Affordable					
Spring Lake Garden Apartments (Rental)	Block 273, Lot 17.01	33	33	66	Built
Assisted Living					
Wexford at Wall	Block 273, Lot 12.01	43	43	86	Built
Regional Contribution Agreement					
Neptune Township		250	0	250	Paid
Long Branch		150	0	150	Paid
Bradley Beach		95	0	95	Paid
Asbury Park		47	0	47	Paid
Alternative Living Arrangements					
AMIB	Block 845, Lot 5	4	4	8	Built
New Horizons in Autism Special Needs Housing	Block 97.02, Lot 14	4	4	8	Built
Presbyterian Homes, Waterford Glen, Allaire Crossing	Block 274, Lot 22	7	7	14	Built
	Total	*858*	*220*	*1,078*	

Senior Cap / Rental Minimum/Bonus Cap Calculation	Cap / Minimum	Proposed / Constructed
Prior Round Senior Cap: By Court Order, 36.1% of proposed or constructed units may be senior age-restricted units. (Units – RCAs) x 0.361 = 858-542 [316] x 0.36 = 113.76 ~ 113 Senior Units Built = Allaire Crossing (59) + Wexford (43) = 102	113	102
Prior Round Rental Minimum: 25% x (Precredited need – Prior Cycle Credits – Rehab Component) = (1073)-7-0 = 1066 x 0.25 = 266.5 ~ 267	267	267 units 220 bonuses

9. **Satisfaction of the Township's Round 3 Obligation**: Wall Township has a Round 3 obligation of 1,250, and will address said obligation as follows:

Compliance Mechanisms 1250-Unit Third Round Obligation (1999-2025)	VL Units Senior/SN	VL Units Family	Credits	Bonuses	Total
Prior Round Residual Credits (1987-1999)					
Surplus			5		5
Supportive and Special Needs/Res Health Care					
AWS	4		8	8	16
Hope Chapel	16		149	139	288
Municipal Sponsored- 100% - Approved/Proposed					
Allenwood - senior rentals	12		85		85
Holly Boulevard - senior rentals	20		150		150
Habitat for Humanity - family for sale			1		1
Colfax - senior rentals			27		27
Scattered Sites - for sale			19		19
Assisted Living					
Sunnyside Manor			8		8
Inclusionary Sites - Family - Proposed					
Long Meadow Commons - rental		7	50	50	100
Glen Oaks - rental		4	24	24	48
Schwartz - rental		8	60	60	120
Route 33/34 Redevelopment Area		17	130		130
Motel Inclusionary Zoning		13	59		59
American Properties - for rent		5	32	32	64
K. Hovanian - for sale		3	20		20

Mack-Cali - for sale		9	68		68
Inclusionary Sites - Senior - Proposed					
Peddler's Village - rental	5		32		32
Kurtz (Sea Glass) - rental	2		10		10
Market to Affordable Program - Proposed			20		20
Total	**57**	**66**	**957**	**313**	**1270**
			Surplus/Deficit		**20**

	Required	Provided
Min. Total Family 50% of obligation-surplus-bonus	469	483
Min. Very Low Required - 13% of units developed after 7/17/2008	122	123
Min. Very Low Family Required- 50% of Total VL	61	66
Min. Total Rental - 25% of obligation	313	617
Min. Family Rental - 50% of total rental	157	178
Maximum Senior - 25% of obligation	312	312

a) **5 Surplus Prior Round Credits**

b) **Sunnyside Assisted Living Facility (8 senior affordable units)**: Eight (8) affordable housing credits from eight (8) beds. This project, which has been constructed and occupied, is located at Block 805, Lot 39.01.

c) **AWS Group Homes (8 affordable bedrooms)**: Eight (8) affordable bedroom credits, from two constructed and occupied groups with eight (8) total bedrooms, located at Block 729, Lots 4.03 and 4.04.

d) **Habitat for Humanity Unit (1 affordable family for-sale unit)**: One (1) affordable for-sale constructed and occupied Habitat for Humanity unit located at Block 25, Lot 59.

e) **Colfax Project (27 affordable senior rental units):** 27 senior affordable rental units from the existing 100 percent affordable 27-unit Colfax Senior Apartments, which is located at Block 240, Lot 54. This development currently includes 27 senior rental units which have limits on rents charged through provisions of a variance granted by the Township's Board of Adjustment on December 18, 1991. The limits on rents charged are not consistent with the Uniform Housing Affordability Controls (UHAC) or any prior COAH regulation, and there is currently no requirement that the units be occupied by low- and moderate-income households or affirmatively marketed. A Developer's Agreement consistent with the terms of this Agreement will be entered into between the Township and the owner of the apartment complex to ensure that the all of the units are properly deed restricted in accordance with UHAC prior to the final Compliance Hearing in this matter. That agreement will allow existing residents to remain in accordance with the December 18, 1991 use variance approval, while providing that whenever a unit becomes available it will be administered in terms of price, tenant selection, affirmative marketing, and all other provisions of UHAC applicable to an age-restricted rental project.

f) **Allenwood Terrace Senior Housing Project (85 affordable age-restricted rental units)**: 85 one hundred percent affordable age restricted rental units on a property identified as Block 801, Lot 1. The developer, the Richman Group, has been awarded nine percent (9%) tax credits in the most recent round. In addition a PILOT Agreement and a Developer's Agreement have been entered into between the developer and the Township, and the developer has received its Planning Board approvals.

g) **Glen Oaks Inclusionary Project (24 affordable family rental units)**: 24 affordable family rental units on Allenwood Road on a site identified as Block 774, Lot 8. The project will consist of 60 for-sale market rate townhouse and 120 family rental apartments. A twenty percent (20%) affordable housing set-aside on the 120 family rental apartments, will deliver the 24 affordable family rental units. In addition, a PILOT Agreement and a Developer's Agreement have been entered into between the developer and the Township. The Township has also created a new zoning designation and applied it to the Glen Oaks site. While the Township has entered into a PILOT Agreement allowing Glen Oaks to apply for HMFA financing, the Township and the developer recognize that even is such funding is not available the Developer has an obligation to construct the 24 affordable units in accordance with the phasing requirement in N.J.A.C. 5:93-5.6(d).

h) **Twenty (20) Proposed Market To Affordable Units:** The Township will produce twenty (20) market to affordable units, of which a minimum of twelve (12) will be affordable family rental units. The Township will buy down units for this program (1) in existing developments or apartment complexes, for which a Memorandum of Understanding ("MOU") will be entered into prior to the Compliance Hearing in this matter including a schedule which shall result in the affordable family rental units required in existing developments or apartment complexes being ready for occupancy within a year of the Compliance Hearing and the remaining units required by July 2, 2025, or (2) in to be constructed projects, for which a Developer's Agreement will be entered into prior to the Compliance Hearing in this matter, and for which the timing of occupancy will be in accordance with the phasing rules for an inclusionary development upon construction pursuant to N.J.A.C. 5:93-5.6(d). The Township already had a successful Market to Affordable Program that resulted in 33 affordable housing family rental credits from the Spring Lake Garden Apartments. The Township will use affordable housing trust fund monies, bonding or other funding sources to fund the Market to Affordable Program, and will ensure that all affordable units in the program are properly deed restricted for 30 years, and thereafter until released by the Township, and comply with all of the other requirements of N.J.A.C. 5:93-5.11. To ensure that affordable units are produced under this program, the Township will increase the minimum required buy-down amount of $20,000 under N.J.A.C. 5:93-5.11(a)(3) as needed.

i) **Supportive Needs Housing at Hope Chapel (149 affordable units)**: 149 affordable housing units located on Block 909, Lot 1 at the site of the former Hope Chapel. Affordable housing credits will be creditworthy under alternative living arrangement COAH Round 2 regulations. A Developer's Agreement consistent with the terms of this Agreement will be entered into between the developer and the Township prior to the final Compliance Hearing in this matter.

j) **Holly Boulevard 100 Percent Affordable Projects (150 age-restricted rental units):** 150 total affordable rental age restricted units from two one hundred percent (100%) affordable phased projects consisting of 75 units in each phase, fifty percent (50%) of which in each phase will be affordable to a combination of very-low-income and low-income households, including thirteen percent (13%) to very low income households. The Township owns the site, which is located at Block 874, Lot 4, and will donate the site to the developer of the projects. In accordance with N.J.A.C. 5:93-5.5, the Township will retain a developer for both projects, and will provide the documentation required by said regulation after such a developer is retained, prior to the final Compliance Hearing in this matter. In the event that either or both projects are unable to secure nine percent (9%) tax credits within the next three (3) funding cycles for which applications are due after January 1, 2020, the Township may utilize other available funds, including four percent (4%) tax Credits and bonding for the project(s) that have not secured funding, or may seek alternative compliance techniques for the production of any such units that are not constructed, subject to approval of FSHC and the Court.

k) **Schwartz Site Inclusionary Project (60 affordable family-rental units)**: 60 family rental affordable units from a 300-unit inclusionary project located at 5155 Asbury Road (Block 913, Lots 2, 3, 15). The Township worked with the New Jersey Department of Environmental Projection (NJDEP) to create an approved building envelope on the site. Prior to the Fairness Hearing in this matter, the Township will provide a letter from the site owner evidencing a firm commitment to work with a developer to build this project including 60 affordable family rental units and thus making the project eligible for rental bonus credits.

l) **Route 33/34 - Asbury Road Redevelopment Zone (130 affordable units)**: The Township will create the Route 33/34 - Asbury Road Redevelopment Zone, which will produce 650 total units, of which 130 will be family affordable units. See attached Exhibit A. As part of the Housing Element and Fair Share Plan to be adopted prior to the Final Compliance Hearing in this matter, the Township will describe how it will create a redevelopment plan for this area in accordance with the Municipal Land Use Law and Local Housing and Redevelopment Law, N.J.S.A. 40A:12A-1 et seq., that provides a realistic opportunity for 130 family affordable units. Within 18 months of the Fairness Hearing approving this Agreement, the Township will adopt a Redevelopment Plan, which will specify specific allowed densities, and which will require a twenty percent (20%) affordable housing set-aside for all affordable housing projects constructed in the zone. Within 9 months of the Adoption of the Redevelopment Plan, the Township 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 130 family affordable units not including the Schwartz, American Properties, or Hope Chapel projects or any other mentioned compliance mechanism in this Agreement. Within 12 months of selecting redevelopers, the Township will enter into Redevelopment Agreements with the redevelopers that when combined show agreements to produce 130 family affordable units. Once 130 total family affordable units are constructed in the Route 33/34 - Asbury Road Redevelopment Zone, the Township will no longer be obligated under this

agreement to enter into additional agreements with redevelopers for additional projects in the zone.

m) **Long Meadow Commons Inclusionary Project (50 affordable family rental units)**: This inclusionary project to be constructed is located on 1920 Highway 35 (Block 151, Lot 10.01), and will deliver 250 total family rental units, of which fifty (50) will be family rental affordable units (20% set-aside). The Township will provide a letter from the developer/owner of the project that the proposed project on this property will consist of a minimum of 50 affordable family rental units, thus making the project eligible for rental bonus credits prior to the Fairness Hearing in this matter. A Developer's Agreement consistent with the terms of this Agreement will be entered into between the developer and the Township prior to the final Compliance Hearing in this matter.

n) **Motel Affordable Housing Zone (59 affordable units)**: The Township has identified an opportunity for the realistic development of affordable housing through the adoption of a Redevelopment Plan for sites that currently contain outdated motels at various locations throughout the Township. Several of the motels are located on Route 35, which also provides an opportunity for the linkage to mass public transportation. A list of the sites, not all of which will necessarily be utilized, is attached as Exhibit B. Given the number of motel units and the size of the properties, it is reasonable to anticipate that this zone will produce at least 59 family affordable units by July 2, 2025. As part of the Housing Element and Fair Share Plan to be adopted prior to the Final Compliance Hearing in this matter, the Township will describe how it will create a redevelopment plan for this area in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq., and Local Housing and Redevelopment Law, N.J.S.A. 40A:12A-1 et seq., that provides a realistic opportunity for 59 family affordable units. Within 18 months of the Fairness Hearing approving this Agreement, the Township will adopt a Redevelopment Plan for the Motel Affordable Housing Zone. Within 9 months of the Adoption of the Redevelopment Plan, the Township 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 59 family affordable units. Within 12 months of selecting redevelopers the Township will enter into Redevelopment Agreements with the redevelopers that when combined show agreements to produce 59 family affordable units. Once 59 total family affordable units are constructed in the Motel Affordable Housing Zone, the Township will no longer be obligated under this Agreement to enter into additional agreements with redevelopers for additional projects in the zone.

o) **Sea Glass Project (10 affordable senior rental units)**: This senior inclusionary project being constructed by a local developer is located on Atlantic Avenue (Block 819, Lots 12 and 13), and will deliver 50 total senior rental units, of which ten (10) will be senior affordable units (20% set-aside). Zoning will be adopted providing for such a development consistent with the terms of this Agreement prior to the final Compliance Hearing in this matter.

p) **American Properties Project (32 affordable family rental units)**: This inclusionary project with frontage on State Highway Route 34, State Highway

Route 33, Wycoff Road (County Route 547) and Outlook Drive (Block 912, Lots 2 and 4.02) will deliver 157 total rental units, with a twenty percent (20%) affordable housing set-aside of 32 affordable family rental units. The Township will provide a letter from the developer/owner of the project that the proposed project on this property will consist of a minimum of 32 affordable family rental units, thus making the project eligible for rental bonus credits prior to the Fairness Hearing in this matter. A Developer's Agreement consistent with the terms of this Agreement will be entered into between the developer and the Township prior to the final Compliance Hearing in this matter.

q) **K. Hovnanian Project (20 affordable family for-sale units)**: This inclusionary project located at 4151 Dunroamin Road (Block 942, Lot 132), will deliver 100 total for-sale townhouse units, with a twenty percent (20%) affordable housing set-aside of 20 affordable for-sale family units. A Developer's Agreement consistent with the terms of this Agreement will be entered into between the developer and the Township prior to the final Compliance Hearing in this matter.

r) **Peddler's Village Project (32 affordable age-restricted rental units)**: This inclusionary mixed-use project located at 1407 Atlantic Avenue (Block 810, Lots 1 and 3) on 22 acres, which the site a former underperforming strip mall, has been designated an area in need of redevelopment, and the current draft of the redevelopment plan requires mixed use activities, which will result in the construction of 32 age restricted affordable units. A Redevelopment Plan consistent with the terms of this Agreement will be in place prior to the Compliance Hearing in this matter which will require such construction as part of an inclusionary development phased in accordance with N.J.A.C. 5:93-5.6(d) and not conditioned on construction of non-residential portions of the development prior to residential portions of the development.

s) **Scattered Sites (19 affordable family for-sale units)**: Similar to the 12 scattered sites affordable units that were constructed in the Prior Round, the Township will construct 19 additional scattered sites affordable units on 19 vacant parcels currently owned by the Township. See list of parcels and scattered site program description, which is attached hereto as Exhibit C. In each year from 2020-2025, the Township will cause to have been built at least three (3) scattered site units, deed restrict the units with half as low-income units and half as moderate-income units in accordance with UHAC, affirmatively market the units, and sell the land and unit to a qualified household. The Township, through funds from its Affordable Housing Trust Fund, or through other funding sources shall provide any funding necessary to enable the construction of these homes in addition to providing the land.

t) **Mack-Cali Project (68 affordable family for-sale units)**: Mack-Cali will construct a 295-unit townhouse development on its property located at 1452 Highway 34 (Block 930, Lots 6 and 18). A twenty percent (20%) affordable housing set-aside will deliver 68 affordable family for-sale units. A Developer's Agreement consistent with the terms of this Agreement will be entered into between the developer and the Township prior to the final Compliance Hearing in this matter.

u) **313 Rental Bonus Credits**.

v) Any surplus affordable units (above the gross 1,250-unit mark or within any of the subcategories such as senior units) that are created by the projects in the Round 3 section of the Township's Fair Share Plan will be credited to Round 4 in accordance with applicable law.

10. The Township 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.

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

12. At least fifty percent (50%) of the units addressing the Township's Round 3 obligation 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.

13. A minimum of twenty-five percent (25%) of the Township's Round 3 obligation shall be met through rental units, including at least half in rental units available to families.

14. A minimum of at least half (50%) of the units addressing the Township's Round 3 obligation must be available to families. The Township acknowledges that through the development of the projects and programs in this Agreement a total of 483 family units will be constructed, of which no fewer than 97 will be three bedroom units and no more than 97 will be one bedroom units. The parties agree that by the time of the Compliance Hearing the Township will have developer agreements in place for 55 of the three bedroom units, 165 of the two bedroom units, and 55 of the one bedroom units, with the very low income and low income percentages referenced above in Paragraphs 10 and 12 proportionally distributed across bedroom types. The Township shall demonstrate how it meets this requirement at the final Compliance Hearing.

15. The Township 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 Township 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 Round 3 obligation.

16. The Township 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 (P.O. Box 943, Freehold, NJ 07728); STEPS, OCEAN, Inc.; the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton branches of the NAACP; and the Supportive Housing Association. As part of its regional affirmative marketing strategies during implementation of its fair share plan, the Township and/or its Administrative Agent shall also provide notice of all available affordable housing units to the above-referenced organizations.

17. 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 ten percent (10%) of affordable units in rental projects being required to be affordable to households earning at or below thirty-five percent (35%) of the regional median household income by household size, thirteen percent (13%) of affordable units in such projects shall be required to be affordable to households earning at or below thirty percent (30%) of the regional median household income by household size subject to Paragraph 10 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 Township, 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. Income limits for all units that are part of the fair share plan required by this Agreement have been established through the entry of a county-wide order issued by the Court on April 18, 2019.

18. After the Court schedules a Fairness Hearing to consider approval of this Agreement, the Township will place this Agreement on file in the Township's municipal building and file a copy with the Court at least 75 days prior to the Fairness Hearing, at which the Township 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 75 days in advance of the Hearing. Within 120 days of the approval of this Agreement by the Court after a Fairness Hearing, Wall Township 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 Township will then apply to the Court for the scheduling of a "Compliance Hearing" seeking judicial approval of Wall Township'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, Wall Township 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 Township's Fair Share Plan. If the Fairness and Compliance Hearings result in approval of this Agreement and the Township's Fair Share Plan, the parties agree that the Township 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 Wall Township's immunity from all Mount Laurel lawsuits through July 2, 2025.

19. The Township shall prepare a Spending Plan for approval by the Court during the duly-noticed Compliance Hearing. 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 Township and FSHC agree that the expenditures of funds contemplated in the Township'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 In 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 Township 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, or Local Government Services.

20. On the first anniversary of the approval of the Township's Housing Element and Fair Share Plan after a Compliance Hearing, and every anniversary thereafter through July 2, 2025, the Township 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 Township may also post such activity on the CTM system and/or file a copy of its report with COAH or its successor agency at the State level.

21. The Fair Housing Act includes two provisions regarding actions to be taken by the Township during the ten-year period of protection provided in this Agreement. The Township 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 Township 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 Township's Housing Element and Fair Share Plan after a Compliance Hearing, and every third year thereafter, the Township 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 Township may also elect to file copies of its reports with COAH or its successor agency at the State level.

22. This Agreement may be enforced by the Township or FSHC through a motion to enforce litigant's rights or a separate action filed in Superior Court, Monmouth County. If FSHC determines that such action is necessary, the Township 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.

23. 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 Township 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*.

24. Under the terms of the July 2019 Settlement Agreement, the Township paid FSHC $8,000 after the execution of the July 2019 Settlement Agreement. The Township agrees (1) to pay $15,000 to FSHC within 10 days of judicial approval of this Agreement at the conclusion of a duly-noticed Fairness Hearing, and (2) $25,000 to FSHC by the date the Compliance Hearing is scheduled by the Court after the Fairness Hearing to commence in this matter, which date may be extended by the Court not based on the Township's own actions or omissions.

25. 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.

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

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

28. 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.

29. The Township 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 Township and FSHC and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

30. The Township and FSHC acknowledge that this Agreement was not drafted by the Township and FSHC, but was drafted, negotiated and reviewed by representatives of the Township and FSHC and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. The Township 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.

31. 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 Township and FSHC.

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

33. No member, official or employee of the Township 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.

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

35. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the Township 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 TOWNSHIP:

Erik C. Nolan, Esq.
Jeffrey R. Surenian & Associates, LLC
707 Union Avenue, Suite 301
Brielle, NJ 08730
Phone: (732) 612-3100
Telecopier: (732).612-3101
Email: EN@Surenian.com

William J. Wolf, Esq.
Bathgate, Wegener & Wolf
One Airport Rd.
PO Box 2043
Lakewood, NJ 08701
Phone: (732) 363-0666
Telecopier: (732) 363-9864
Email: wwolf@bathweg.com

WITH A COPY TO THE TOWNSHIP ADMINISTRATOR:

Jeffry Bertrand, Township Administrator
2700 Allaire Road
Wall, NJ 07719
Phone: (732) 449-8444 x2216
Telecopier: (732) 449-8996
Email: jbertrand@townshipofwall.com

WITH A COPY TO THE COURT MASTER:

Francis J. Banisch, III, PP/AICP
Banisch Associates
111 Main Street
Flemington, NJ 08822
Phone: (908) 782-0835
Telecopier: (908) 782-7636
Email: frankbanisch@banisch.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: 12/16/19, 2019

Witness/Attest:

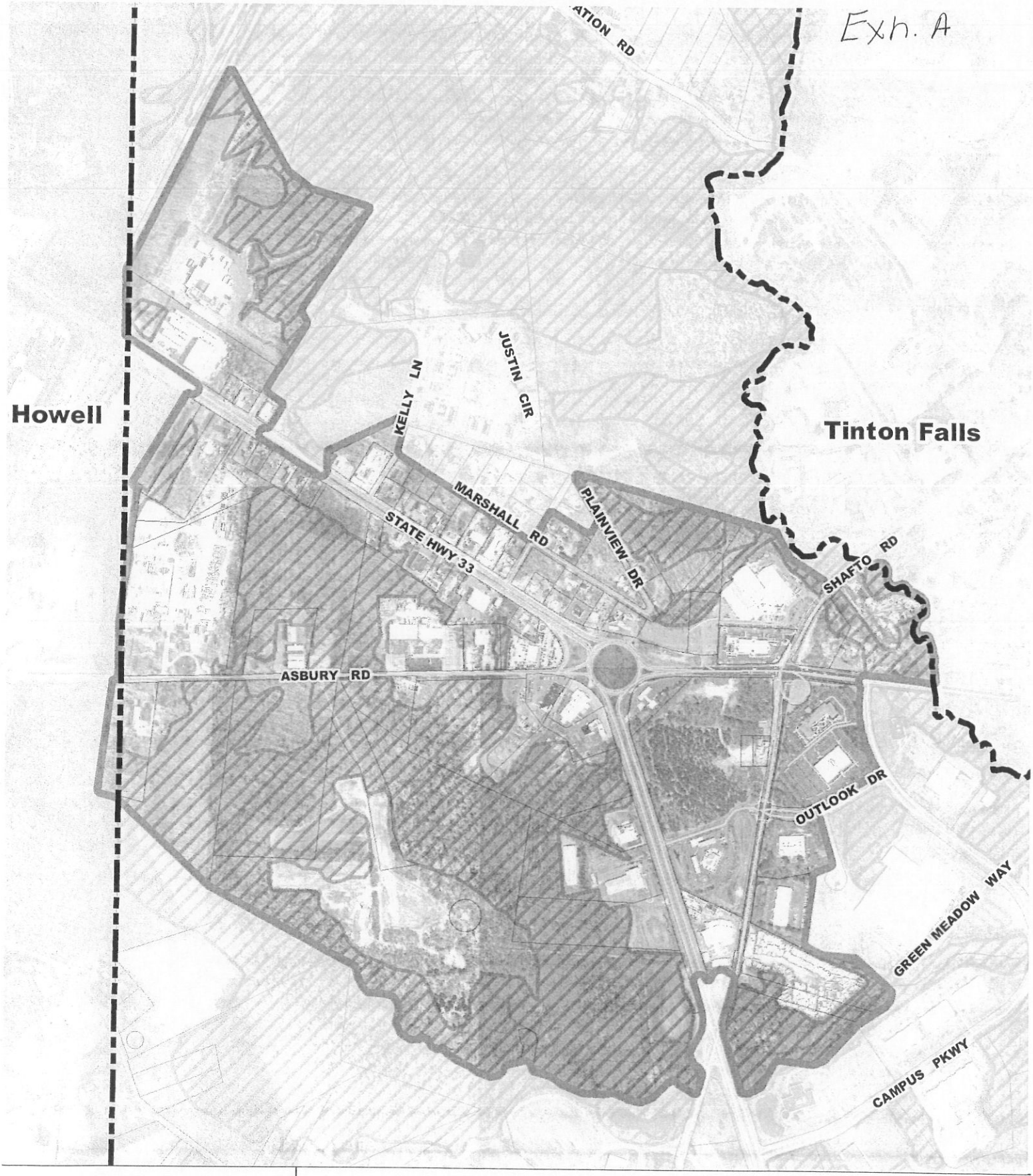
TOWNSHIP OF WALL:

By: _____
Kevin Orender, Mayor
On Behalf of the Township of Wall
ORENDER

Dated: December 18, 2019

Exhibit A

Exh. A



0 250 500 1,000 Feet

Route 33/34 Proposed Redevelopment Area

CONDEMNATION NOT CONTEMPLATED FOR THE REDEVELOPMENT AREA

Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

LOCATION:
Wall Township, Monmouth County, NJ

DATE:
June 3, 2019

Legend

Redevelopment Area
Wetland Constraints

Exhibit B

Exh. B

Block	Lot	Name	Location
151	9	Travel Lodge	1916 Hwy 35
271	29	Budget Inn & Suites	1909 Hwy 35
274	25	Village Motel/Red Carpet Inn	2035 Hwy 35
301	9	Twin Oaks Motel	2300 Hwy 35
706	6	The Sea Girt Lodge	2168 Hwy 35
745	2	Hwy 138 Motel	2365 Hwy 138
831	30	Shore Hills Motel	2337 Hwy 34
911	26	Express Inn	5309 Hwy 33

Exhibit C

Exh. C

Township Owned Property		
Block	Lot	Property Location
227	2	2914 GARFIELD ST
178	3	2706 FILMORE ST
52	4	1113 18TH AVE
254	7	3005 WILSON ST
243	10	3006 HARDING ST
266	14	1898 CLEVELAND AVE
243	15	3005 COOLIDGE ST
336	16	1123 MANITO RD
262	20	2407 BELMAR BLVD
266	22	2605 JOHNSON ST
336	28	1109 MANITO RD
4	31	805 WALLING AVE
876	44.01	2505 RAMSHORN DR
334	47	2511 LENAPE TR
51	69	1110 FIRST ST
30	462	2010 WORLD ST
240	17	1415 EVANS ST
340	13	1211 TECUMSEH PL
71	42	1818 SOUTH N ST

Wall Township Scattered Site Affordable Housing Home Ownership Program

Wall Township's Affordable Home Ownership Program is designed to provide opportunities to low and moderate income qualified home buyers for the purchase of single family homes throughout the community. The Township currently owns various vacant properties that are suitable for the development of single family homes to meet this initiative. In order to achieve this goal, the Township will utilize available funds to design and build single family homes that will be sold at affordable prices as determined by Uniform Housing Affordability Controls (UHAC) guidelines. The Township intends to engage the services of an architect to develop construction drawings and perform construction management services during the building phase. In addition, the Township will enter into an agreement with a contractor to build the home. Upon completion, the Township will use a qualified Administrative Agent, to affirmatively market the property and screen prospective affordable buyers in accordance with the income limits set forth in the Consent Order entered by the Court on April 18, 2019, which sets current for-sale income limits for Monmouth County. Upon qualification and selection, the buyers will purchase the property at an affordable price. The difference in costs between that of designing and building the structure and the affordable sale price will then be held as a second mortgage on the property only due upon sale of the property after the period of affordability expires. In addition to the second mortgage, and a deed restriction will be placed upon the property for the period of affordability in accordance with UHAC, which in this case will be at least 30 years. The following is an example of the financing structure for each project. The values are for illustrative purposes only:

Land Cost:	0	(municipally owned)
Architect:	10,000	
Construction:	225,000	
Marketing:	2,500	
Legal:	4,000	
Total Costs:	$241,500	

Affordable Sale Price: $200,000

Difference to be held as second mortgage: $41,500

From the above illustrative example, the cost of the total development would be $241,000 and initially funded by the Township. Upon sale to a qualified buyer at an affordable price, the Township would receive the full $200,000 from the buyer which would offset the cost of development. This would leave a balance of municipally provided funds as a second mortgage ($41,500 in this example) on the property that would only be repayable upon sale after the period of affordability expires. Sources of funds for this project can be either: Affordable Housing Trust Funds, general funds, or capital funds. Regardless of source, the only long term cost to the Township is that which is used to fill the gap between development/construction cost and the eventual affordable sale price.