

HOUSING ELEMENT AND FAIR SHARE HOUSING PLAN

TOWNSHIP OF RANDOLPH MASTER PLAN



August 19, 2022

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HC Project Number 2019019.001

The original of this report was signed and sealed in accordance with N.J.S.A. 45:14A-12.



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THE TOWNSHIP OF RANDOLPH HOUSING ELEMENT AND FAIR SHARE PLAN

I. INTRODUCTION

This document is presented in two parts; which include (i) the Township of Randolph ("Township" or "Randolph") Master Plan Housing Element and (ii) the Township of Randolph Fair Share Plan. This Housing Element and Fair Share Plan addresses the Township's compliance with the Municipal Land Use Law ("MLUL"), relevant Council on Affordable Housing ("COAH") regulations, relevant Uniform Housing Affordability Controls ("UHAC") regulations, the Highlands Water Protection and Planning Act and its rules, regulation and guidance documents (Highlands Act and Regulations), and other applicable law. The Master Plan Housing Element will examine the Township's demographics, and employment characteristics, population and demographic characteristics of the Township of Randolph, along with the housing stock and historic trends throughout the decades. A Housing Plan according to the Municipal Land Use Law C.40:55D-28b(3) must include, but is not limited to, residential standards and proposals for the construction and improvement of housing. The Housing Element shall contain at least the following:

- An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated;
- A projection of the municipality's housing stock, including the probable future construction of low and moderate housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- An analysis of the existing and probable future employment characteristics of the municipality;
- A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing; and
- A consideration of the lands most appropriate for the construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.

The Fair Share Plan will address the plan to meet Randolph's Fair Share Housing Obligation. The Fair Share Plan is part of the Township of Randolph's request to acquire a Judgement of Compliance and Repose ("JOR") from the Court in the Declaratory Judgement Action In the Matter of the Application of the Township of Randolph for Declaratory Judgment, Docket No. MRS-L-1640-15 which was filed in Morris County on July 2, 2015, and will include the projects and strategies to address Randolph's affordable housing obligations.

II. THIRD ROUND HOUSING ELEMENT

A. OVERVIEW

This 2019 Housing Element and Fair Share Plan was prepared in response to the New Jersey Supreme Court Decision decided on March 10, 2015, In re Adoption of N.J.A.C. 5:96 & 5:97 by the N.J. Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV"), and has been prepared in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28b(3). The Housing Element and Fair Share Plan has also been prepared to comply with all requirements of the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), COAH Second Round regulations (N.J.A.C. 5:93-1, et seq.) and Mount Laurel case law.

1. Statewide Affordable Housing History

The affordable housing, or Mount Laurel doctrine, started with the 1975 decision by the N.J. Supreme Court involving the Township of Mount Laurel (So. Burl. Cty. N.A.A.C.P. v. Tp. of Mt. Laurel, 67 N.J. 151 (1975) or "Mount Laurel I"). In Mount Laurel I, the Supreme Court decided that under the State Constitution, each 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", including those of low and moderate income. Thus, the Mount Laurel I decision prohibits municipalities from using zoning powers to prevent the potential for the development of affordable housing.

Displeased with progress under its earlier decision, in 1983, the NJ Supreme Court released a second Mount Laurel decision (So. Burlington Ct. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) or "Mount Laurel II"). Because the Legislature had not enacted laws to implement the holding in Mount Laurel I, the Court in Mount Laurel II fashioned a judicial, or what is commonly referred to as a "Builder's remedy". That remedy created a special process by which builders could file suit for the opportunity to construct housing at much higher densities than a municipality otherwise would allow as long as they set-aside an amount of that housing for low- and moderate-income households. In essence, Builder's Remedy lawsuits seek to force towns to meet their affordable housing obligations generally utilizing the site proposed by the builder bringing the lawsuit.

Responding to the builder's remedy litigation generated by the Mount Laurel II decision and the high fair share obligations generated by the AMG Realty Co. v. Warren Tp., 207 N.J.Super. 388 (Law 1984) decision, the State Legislature passed the Fair Housing Act (hereinafter "FHA") in 1985, which the Supreme Court upheld in (Hills Dev. Co. v. Bernards Twp., 103 N.J. 1 (1986) or "Mount Laurel III"). The Township of Randolph participated in the Mount Laurel III litigation.

The FHA created COAH, and required COAH to adopt criteria and guidelines not only to establish a fair share formula, but also to establish various means by which a municipality could adjust its fair share based upon credits, adjustments and other factors within COAH's discretion. The FHA also required COAH to adopt criteria and guidelines to identify the techniques available to municipalities to meet its obligation. The FHA included a process for municipalities to obtain Substantive Certification, which, if granted by COAH, would protect municipalities against an exclusionary zoning lawsuit for a defined period of time. The FHA also provided a means by which a municipality in an exclusionary zoning case at that time could seek to transfer its case to the newly created state agency, COAH. Finally, the FHA established an administrative process by which a municipality could bring itself under COAH's jurisdiction and comply "without litigation" N.J.S.A.



52:27D-303. To implement the FHA requirements, COAH adopted a series of regulations. COAH adopted the First Round regulations in 1986. In the First Round, COAH adopted regulations establishing a fair share formula by which any municipality could ascertain its fair share in the first instance. COAH also adopted regulations to enable municipalities with insufficient land and other critical resources to address the number generated by the formula to adjust their fair share to the number of units that could realistically be achieved through traditional inclusionary zoning, i.e., rezoning suitable sites at densities of at least 6 units per acre with a 20 percent set-aside. The adjusted fair share became the municipality's fair share and COAH imposed no obligation on the municipality beyond its fair share, as adjusted.

COAH adopted its Second Round regulations in 1994. As in the First Round, COAH adopted regulations (a) by which all municipalities could ascertain the number generated by a fair share formula and (b) by which municipalities with insufficient land or other critical resources could obtain an adjustment to the number generated by the formula. COAH labelled the adjusted number the "realistic development potential" or "RDP" and COAH labelled the difference between the number generated by the formula and the RDP as the "unmet need." In contrast to the First Round regulations, COAH gave itself the discretion to consider the imposition of alternative mechanisms for addressing all or a part of its unmet need. In this regard, N.J.A.C. 5:93-4.2 (h) provides that COAH "may" require a land or critical resource-poor municipality to adopt a development fee ordinance, and overlay ordinance and other ordinances to address all or a portion of the so-called unmet need.

Third Round regulations were supposed to be adopted in 1999 when the Second Round rules were set to expire. However, COAH did not adopt the first iteration of Third Round rules until 2004. In 2007, the Appellate Division affirmed portions of COAH's 2004 Third Round rules, but invalidated other aspects of them. See In Re Adoption of N.J.A.C. 5:94 & 5:95, 390 N.J. Super. 1 (App. Div. 2007). The opinion remanded the matter to COAH for adoption of new compliant regulations, and gave the agency six months to do so.

After the Appellate Division gave COAH two extensions of the six month deadline, COAH finally adopted a second set of Third Round rules in September of 2008. Many municipalities, including Randolph, submitted Third Round affordable housing plans to COAH and to courts for approval in December of 2008 in response to the new Third Round rules.

On October 8, 2010, the Appellate Division concluded that COAH's revised 2008 regulations suffered from many of the same deficiencies as the first set of Third Round rules, and it invalidated substantial portions of the 2008 Third Round regulations again. See In re Adoption of N.J.A.C. 5:96 & 5:97, 416 N.J. Super. 462 (App. Div. 2010). The decision was appealed to the New Jersey Supreme Court, which invalidated the second version of the Third Round regulations and directed COAH to use a methodology for determining prospective affordable housing needs similar to the methodologies used in the prior rounds. See In re Adoption of N.J.A.C. 5:96 & 5:97, 215 N.J. 578, 612, 616-17 (2013).

During this same time period, Governor Christie initiated a series of steps to abolish or reduce the role of COAH. During this time period the Legislature introduced a Bill, which would have transformed the affordable housing world. The S-1 Bill in its initial form was supported by Governor Christie. By the time it went through the Assembly, however, a very different bill passed and the Governor conditionally vetoed the Bill.

Frustrated with the lack of movement by COAH to adopt updated Third Round rules, the Supreme Court issued an order on March 14, 2014, which required COAH to adopt new Third Round regulations by October 22, 2014. COAH proposed the third version of Third Round regulations on April 30, 2014. Unfortunately, in October of 2014, the COAH Board deadlocked 3-3 when voting to adopt the third version of Third Round regulations. COAH never made any effort to overcome the deadlock and, consequently, COAH never adopted Third Round regulations for a third time.

In response to COAH's failure to adopt Third Round regulations, on March 10, 2015, the Supreme Court issued Mount Laurel IV. See In re Adoption of N.J.A.C. 5:96 & 5:97, 221. N.J. 1 (2015). In this decision, the Court (1) found that COAH had violated the March 14, 2014 Order by failing to adopt new Third Round regulations by October 22, 2014, (2) held that, without new Third Round regulations, COAH could not process municipalities' petitions for substantive certification, (3) directed trial courts to assume COAH's functions, and (4) authorized municipalities under COAH's jurisdiction to file Declaratory Judgment Actions along with a motion for Temporary Immunity between June 8, 2015 and July 8, 2015, or risk exposure to Builder's Remedy lawsuits.

While the Supreme Court in the 2015 case declined to adopt a specific methodology or formula to calculate the Third Round affordable housing obligations of the municipalities and instead left that determination to the 15 Mount Laurel Judges (one in each vicinage), it did provide some guidance. The Court also treated municipalities that had participated in the COAH process at the point it issued its decision, but had not yet secured COAH's approval of their affordable housing plans in the same way that the 1985 FHA treated municipalities that had been in builder's remedy litigation at that time and had thereafter secured a transfer of their case from the court to COAH. Such municipalities secured enormous protections from developers seeking to dictate how the municipalities satisfied their obligations.

B. SUMMARY OF RANDOLPH'S AFFORDABLE HOUSING HISTORY AND ACTIVITIES

The Township of Randolph has had a long history of providing affordable housing with respect to its Court and COAH-mandated fair share obligations. The Township participated in the process established by the First Round rules by adopting a HEFSP which was dated January 1987. This was filed with the Council on Affordable Housing (COAH). COAH granted First Round substantive certification of a Housing Element and Fair Share Plan to the Township of Randolph on November 16, 1987 and again on March 3, 1988. That same plan was further amended in 1990 and was incorporated into the 1992 Master Plan by reference.

In response to the Second Round regulations COAH adopted in 1994, the Township's 1995 Housing Element and Fair Share Plan initially addressed the Second Round affordable housing obligations. COAH requested additional information in a report dated November 9, 2000, and in response, the Township prepared an amendment to the HEFSP and submitted it to COAH with other supporting information dated July 24, 2001.

The Township further updated its Housing Plan on March 18, 2003 and August 19, 2004. A Housing Element was prepared pursuant to the COAH rules adopted on December 20, 2004. On December 1, 2005, the New Jersey Council on Affordable Housing ("COAH") issued a report "intended to provide guidance to Randolph in preparing its Third Round plan" which also reviewed the Township's efforts to satisfy its Prior Round obligation. The 2005 COAH Report confirms that Randolph was entitled to 309 credits toward the satisfaction of the new construction portion of its affordable housing obligation. Specifically, the 2005 COAH Report awarded 309 credits to the Township in



connection with the following projects: 100 prior cycle credits for India Brook Senior Housing; 23 credits for 23 bedrooms in 5 alternative living arrangement facilities; 32 credits and 15 rental bonuses for the non-age-restricted, rental units at the Bennett Avenue Family Housing development; 40 credits for the non-age-restricted, ownership units at the Woodmont development; 10 credits for the non-age-restricted, rental units at the Brookside Village Apartments; 38 credits for the non-age-restricted, rental units at the Canfield Mews development; 27 credits for the non-age-restricted, rental units at the Arrowgate Village development; 17 credits for the non-age-restricted, ownership units at the Boulder Ridge development; 6 credits for the non-age-restricted, rental units at a Morris County Affordable Housing Corporation development; and 1 credit for a non-age-restricted ownership unit sponsored by Morris County Habitat for Humanity.

As noted earlier in this Plan, the Appellate Division invalidated COAH's first iteration of Third Round rules in 2007 and required COAH to adopt major changes to its rules. Those rule changes were adopted in June 2008 and again amended in September 2008. The Township's most recent Housing Element and Fair Share Plan dated April 27, 2010 was adopted by the Planning Board on May 17, 2010. The Township submitted this Housing Element and Fair Share Plan to the Highlands Water Protection and Planning Council in a Petition for Plan Conformance. The same Plan was filed with COAH on June 7, 2010.

The Township reached a Settlement Agreement with Fair Share Housing Center on August 19, 2021, which was approved at a properly noticed Fairness Hearing held virtually and memorialized by Court Order dated June 3, 2022.

In accordance with the MLUL, COAH's Second Round regulations, and other applicable law, the Township hereby presents this Housing Element and Fair Share Plan to the Court for review and approval by the Court.

1. Existing Credits

Including and in addition to the units outlined in the 2005 COAH Report, the following list inventories the affordable housing units and credits that have been constructed in the Township prior to 2019. It is understood that all documentation required by the Court Master for units that did not previously receive credit from the Court may be necessary to establish their validity.

1. Canfield Mews, 184 Canfield Avenue (Block 41, Lots 1 and 1.01), completed with all affordable certificates of occupancy issued by October 10, 1991, which consists of 192 total rental units with a set-aside of 38 rental affordable units, which includes 19 low and 19 moderate units.
2. Arrowgate, 930 Route 10 (Block 42, Lot 122.01), completed with all affordable certificates of occupancy issued by December 31, 1995, which consists of 164 total units with market rate for-sale units and a set-aside of 27 rental affordable units, which includes 14 low and 13 moderate units.
3. Boulder Ridge, Boulder Ridge Drive and Wendover Court (Block 184, Lot 1 and 1.20), which consists of 98 total for-sale units with a set-aside of 17 for-sale affordable units, which includes 8 low and 9 moderate units.

4. Bennett Avenue Family Housing, Bennett Avenue (Block 191, Lots 7, 8, 11, 12 & 13 and Block 195, Lots 3 & 4), which is a 100% affordable project that consists of 32 total rental units, which includes 16 low and 16 moderate units.
5. India Brook Senior Housing, 213 Morris Turnpike (Block 93, Lot 56.01), which is a 100% senior/age-restricted affordable project that consists of 100 total age-restricted units, which includes 50 low and 50 moderate units.
6. Woodmont, Spruce Tree Lane (Block 119, Lot 109.01-109.40), which consists of 201 total units with a set-aside of 40 for-sale affordable units, which includes 20 low and 20 moderate units.
7. Brookside Village Apartments, 21 Brookside Avenue (Block 224, Lot 79.01), which consists of 40 total units with a set-aside of 10 rental affordable units, which includes 5 low and 5 moderate units.
8. Morris County Affordable Housing Corporation, Bennett Avenue (Block 191, Lots 14 & 15), which is a 100% affordable for-sale project that consists of 6 total for-sale units, that are moderate income.
9. Morris County Habitat for Humanity Projects (Habitat I):
 - a. Habitat House, 13 Calumet Road (Block 59, Lot 15), which consists of 1 for-sale unit that is low-income.
 - b. Habitat House, 152 Millbrook Avenue (Block 134, Lot 3.02), which consists of 1 for-sale unit that is low-income.
 - c. Habitat House, 11 Fairlawn Avenue (Block 134, Lot 9), which consists of 1 for-sale unit that is low-income.
10. Group Homes and Supportive Needs Housing:
 - a. Peer Group Housing, 7 Main Street (Block 17, Lot 18), consisting of a 4 bedroom group home of which 2 are low-income and 2 are moderate-income.
 - b. ARC Much Dignity House, 18 Cedar Terrace (Block 176, Lot 82), consisting of a 6 bedroom group home, of which all 6 are low-income.
 - c. Skylands Group Home, 140 Combs Hollow Road (Block 50, Lot 6), consisting of a 4 bedroom group home of which all 4 are low-income.
 - d. High Avenue House, 45 High Avenue (Block 53, Lot 44), consisting of a 4 bedroom group home of which all 4 are low-income.
 - e. School House Group Home, 40 Schoolhouse Road (Block 82, Lot 30), consisting of a 4 bedroom group home of which all 4 are low-income.



Additionally, the following units have been approved or constructed post-1986 and prior to 2019; these were not included in the 2005 COAH Report and rather were considered as "New Project Sites" in the 2010 Housing Element and Fair Share Plan. It is understood that all documentation required by the Court Master for units that did not previously receive credit from the Court may be necessary to establish their validity.

1. Woodmont, Millbrook Avenue (Block 119, Lot 109.01-109.40)
 - a. Extension of Expiring Controls - Woodmont is an existing inclusionary development with 201 dwelling units, 40 of which are for-sale affordable units. The controls on these units were scheduled to expire by July 1, 2014, but controls were extended pursuant to a new Deed Restrictions for the 40 existing for-sale affordable units.
2. Sunrise Assisted Living, 648 Route 10 (Block 73, Lot 16)
 - a. Sunrise Assisted Living is a senior care and living facility that offers assisted living, short-term stays, memory care, and coordination of hospice services.
 - b. The NJ Department of Health (NJDOH) lists this facility as a long-term care facility with both Medicaid and Private funding, and therefore 8 credits are sought for Medicaid certificates.
3. Brightview Assisted Living, 175 Quaker Church Road (Block 111, Lot 20.01)
 - a. Brightview Randolph is a senior care and living facility that has both independent living apartments, as well as assisted living apartments and memory-care facilities.
 - b. The NJ Department of Health (NJDOH) lists this facility as a long-term care facility with both Medicaid and Private funding, and therefore 6 credits are sought for Medicaid certificates.
6. Group Homes and Supportive Needs Housing:
 - a. Our House, 17 Pamela Drive (Block 35, Lot 28), consisting of a 4 bedroom group home of which 3 are low-income (CO date October 2013 with 30-year controls).

Finally, the following projects have been approved, but not yet constructed:

1. Grecco Realty, LLC, 477 Route 10 (Block 111, Lot 12.01)
 - a. Grecco Realty has an approved shopping center located on the westbound side of Route 10. The developer has received approval to build 10 age-restricted units, with a set-aside of 5 of affordable age-restricted rental units for low- and moderate-income households.
 - b. Consists of an affordable set-aside of 5 age-restricted rental units.

2. Rose of Sharon, 236 Dover Chester Road (Block 21, Lot 29)

- a. The site is developed with an existing two-family dwelling on an oversized lot within the R-1 zone. The developer has received approval to subdivide the property in order to develop two additional single-family dwellings. One unit within the existing two-family structure would be set-aside as an affordable dwelling.
- b. Consists of an affordable set-aside of 1 rental unit.

Table A. Summary of Completed Units through 2019 Township of Randolph, Morris County, NJ				
Affordable Units Previously Built in 2010 Housing Element				
	Very Low	Low	Moderate	Total
<i>Rental</i>	--	54	53	107
<i>Group Home/Special Needs</i>	--	21	2	23
<i>For-Sale</i>	--	31	35	66
<i>Age-Restricted</i>	--	50	50	100
			Total	296
Affordable Units Previously Approved or Built				
<i>Rental</i>	--	3	3	6
<i>For Sale</i>	--	20	20	40
<i>Special Needs/Assisted Living</i>	--	17	--	17
			Total	63
Total Completed or Approved Units				
			<i>Total Existing</i>	359

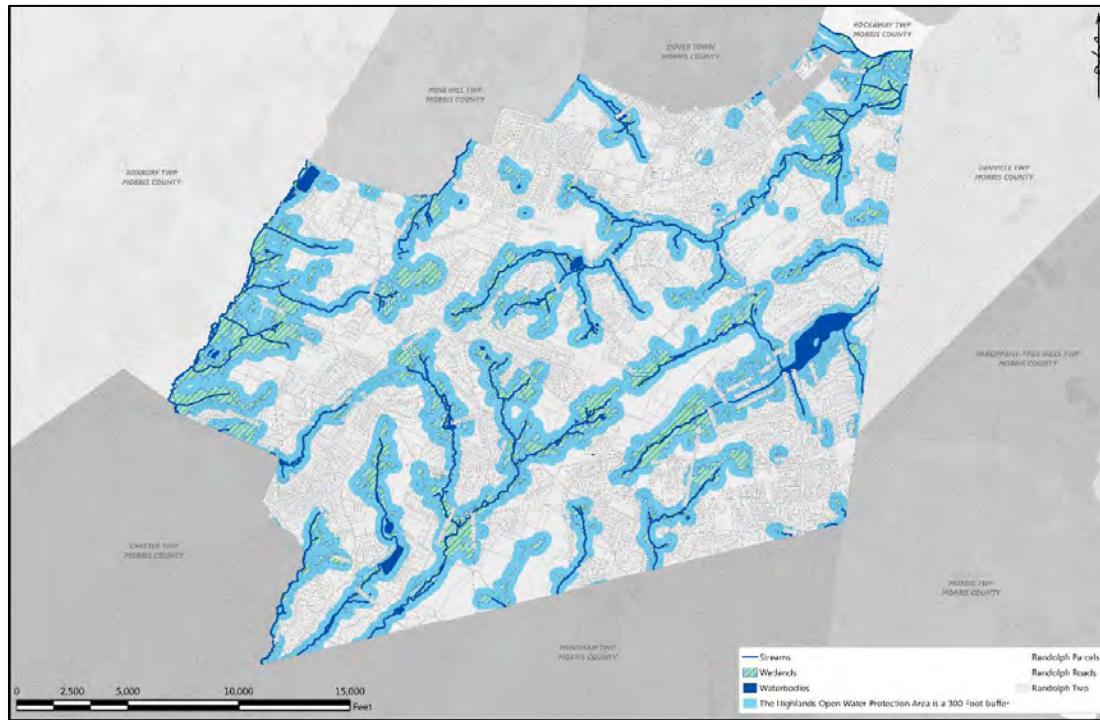
C. DEVELOPMENT CONSTRAINTS IN RANDOLPH

1. Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38)

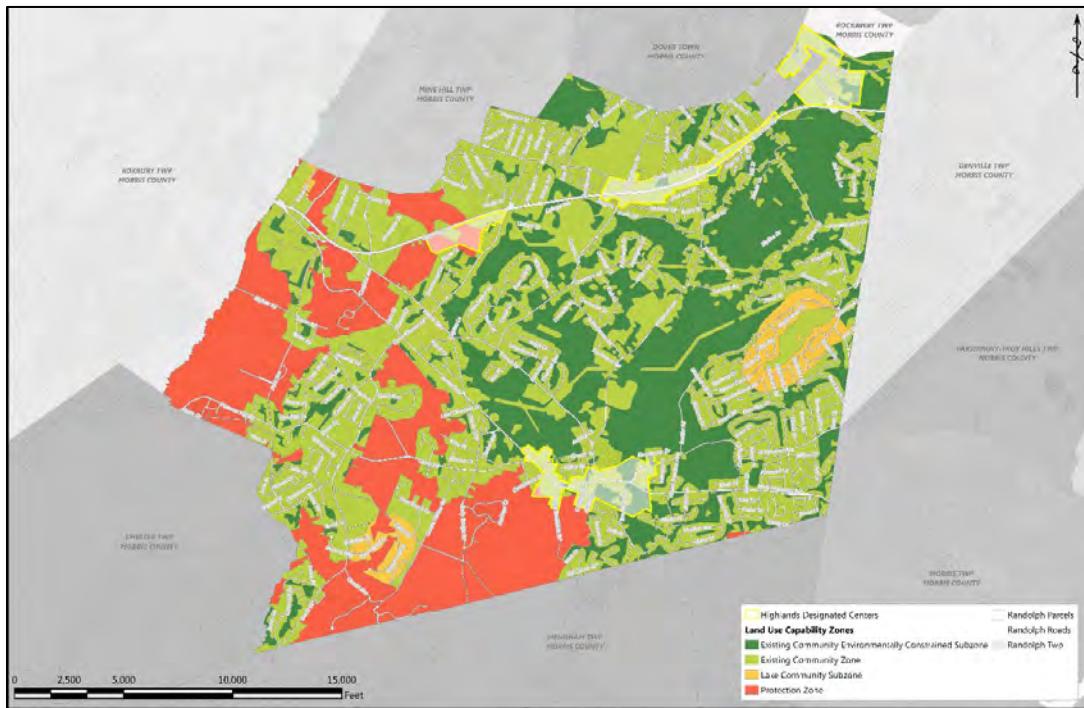


Randolph is located in the Highlands Region, which is established by the Highlands Water Protection and Planning Act of 2004 ("the Act"). Overall, about five (5%) percent, or 581 acres, of the Township is located in the preservation area and ninety-five (95%) percent, 12,961 acres, in the planning area. The Township submitted a Petition for Plan Conformance for both areas, which was approved by the Highlands Council on January 17, 2013. The Highlands Council does not issue permits, but does review proposed projects throughout the Highlands Region for consistency with the Highlands Act and Highlands Regional Master Plan (RMP). Applications involving projects in the Preservation Area are reviewed and permitted by the New Jersey Department of Environmental Protection (NJDEP), Division of Land Use Regulation. Land within the Highlands Planning Area are exempt from the regulations promulgated by the New Jersey Department of Environmental Protection (NJDEP) set forth in N.J.A.C. 7:38. The following map depicts the planning area in dark grey, and the preservation area in the northwest extent in light grey. Additionally, the map depicts various preserved open space and farmland parcels, which further reduce the available developable land in Randolph.

The Highlands Regional Master Plan addresses components necessary to protect the natural, scenic and other Highlands resources, including but not limited to, forests, wetlands, stream corridors, steep slopes, and critical habitat for flora and fauna. More specifically, the Highlands Open Water Protection Areas (N.J.A.C 7:38-3.6) requires a 300-foot buffer from certain waterways and bodies of water. The Highlands Planning Area is the portion of the Highlands Region that is not included in the Highlands Preservation Area. While the Act does not establish any new standards for the Highlands Planning Area, the Highlands Regional Master Plan, provides an avenue for enhanced standards, TDR, and smart growth in this portion of the Highlands Region. The following map shows additional constraints based on wetlands, waterways, and open water buffer areas.



In addition to conservation efforts, the Highlands Act designates certain areas where development and redevelopment is planned and encouraged, known as Highlands Centers. These are intended to support balance in the Highlands Region by providing for sustainable economic growth while protecting critical natural and cultural resources. Randolph has four (4) Highlands Center designations which include: (a) Mount Freedom Highlands Village Center, (b) Route 10 Corridor/East Highlands Center, (c) Route 10 Corridor/West Highlands Center, and (d) South Salem Street Highlands Redevelopment Center.



Likewise, Land Use Capability Zones were developed pursuant to N.J.A.C. 7:38-1.1(a), whereby the Highlands Council has included a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in its Regional Master Plan. Randolph in particular includes areas in the Protection Zone, Existing Community Zone, and the Existing Community Environmentally Constrained and Lake Community Sub-Zones. Zone designation provides all levels of government (federal, State, county, and municipal) and the public with an indication of capacity and where special consideration is required to protect regionally significant resources.

2. History of the Highlands Region and COAH

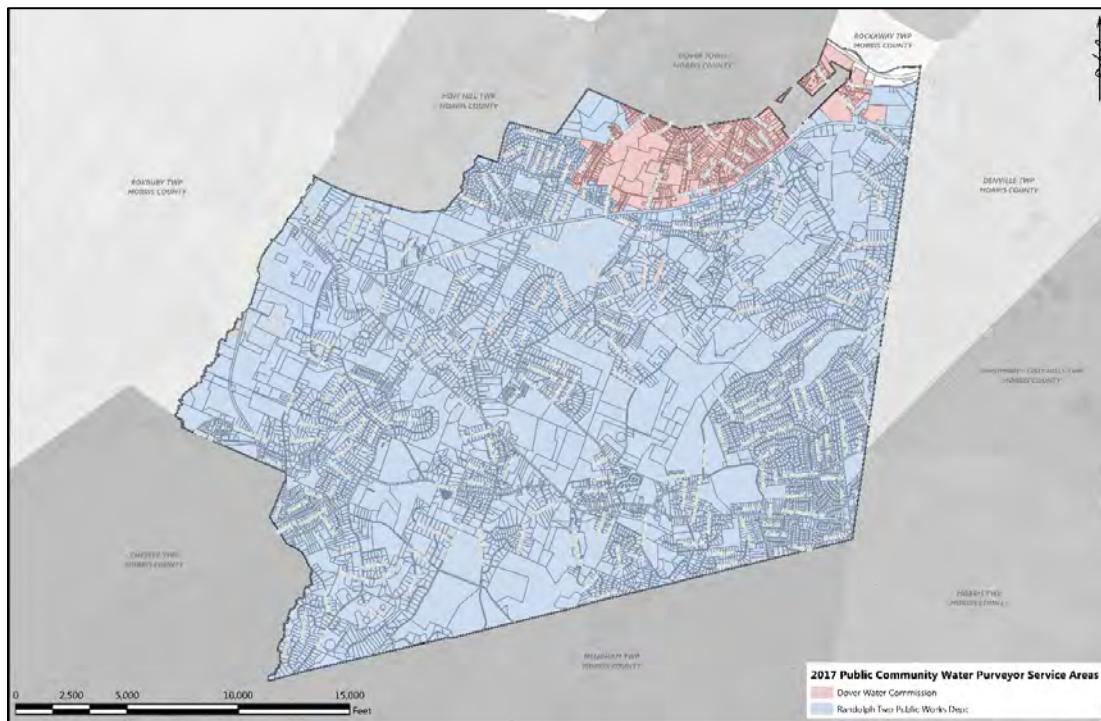
On September 5, 2008 the Governor signed Executive Order #114, which among other directives ordered the Highlands Council to work with COAH to review the Third Round growth projections for consistency with the Highlands Regional Master Plan and assist COAH with developing adjusted growth projections within the Highlands region. It also called for the coordination of deadlines for revision of municipal master plans and Third Round fair share plans to be in conformance with both the Highlands Act and the Fair Housing Act, including a reasonable extension of deadlines. The executive order also included a requirement that the Highlands Council and COAH enter into a joint Memorandum of Understanding (MOU) as soon as practicable but no later than sixty 60 days from



the effective date of the Governor's Executive Order. The MOU was signed at the end of October 2008 and extended the deadline for submission of Housing Plans to COAH initially to December 8, 2009 and further to June 8, 2010 for communities that expressed their nonbinding intent to conform to the Regional Master Plan (RMP). The MOU also established a scarce resource order on all municipalities in the Highlands Region under COAH's jurisdiction in order to preserve scarce land, water and sewer resources and to dedicate these resources on a priority basis for the production of affordable housing.

Randolph's Township Council passed nonbinding resolutions to conform the local Master Plan and development regulation to the RMP. Studies were undertaken by the Township to assess the impact of conformance on the community. The last HE&FSP was prepared in 2010 and submitted to COAH for substantive certification. Due to challenges to its regulations COAH did not conduct a substantive review of that plan and no substantive certification was received. In 2013, in the Highlands Council review of the Randolph's Highlands Master Plan Element for consistency of the Petition for Plan Conformance with the Highlands Regional Master Plan (RMP), the Council "recognized that the main component of the Council on Affordable Housing (COAH) Third Round rules was invalidated in 2010 and an appeal of that invalidation is pending in the New Jersey Supreme Court; that COAH's *Guidance for Highlands Municipalities that Conform to the Highlands Regional Master Plan* was invalidated by the Appellate Division of the Superior Court; that significant changes to State laws pertaining to the provision of affordable housing are being considered; that Governor Christie's Reorganization Plan No. 001-2011 (issued June 29, 2011) eliminated COAH and transferred its functions and duties to the Department of Community Affairs (DCA); and that the Appellate Division of the Superior Court invalidated the Governor's Reorganization Plan in a March 8, 2012 decision, reversing the abolition of COAH and the transfer of its function, powers and duties to the DCA". However, the review also recognized that as required by the Highlands Act and the Fair Housing Act, COAH has the responsibility to determine affordable housing obligations and must take the Highlands Regional Master Plan into consideration in discharging this responsibility.

3. Randolph's Water Resources



The Township of Randolph is largely served by two public community water purveyor service areas, which include the Dover Water Commission (“Dover Water”) and the Randolph Township Public Works Department (“Randolph Water”). As depicted in the map below, an obvious majority of the Township’s properties are serviced by Randolph Water. As per the 1992 Township Master Plan, the Township owns and operates a public community water system. A section of the Township generally north of Route 10 and east of Dover-Chester Road is served by the Town of Dover under a separate franchise agreement. The remaining properties throughout the Township are served by private wells.

Randolph does not own or operate a water supply source or a water treatment facility and rather, water provided by the Township in the Randolph service area is purchased exclusively from the Morris County Municipal Utilities Authority (“MCMUA”), whose source is ground water, known as the Almatong well fields. The Randolph Township water utility obtains 100% of the water in its system from the MCMUA and is solely dependent upon the MCMUA for any additional water supply. The contract between the Township and the MUA sets the maximum amount of water the Township has to distribute. The contractual peak daily flow (Firm Capacity) is 3.12 millions of gallons per day (MGD). The available water capacity for any water system is defined by the NJDEP as the Firm Capacity minus the sum of the peak daily demand plus the committed peak. There are six MCMUA wells located in Randolph and Chester Townships and two wells in Flanders Valley located in Mount Olive and Roxbury Townships. These wells draw from the Upper and Lower Stratified Glacier Drift and the Lower Liethsville Limestone Formations. Multiple reports prepared by the Township engineer as part of the declaratory judgment proceedings conclusively demonstrate the inability of the MCMUA to secure permits from the New Jersey Department of Environmental Protection (“NJDEP”) to obtain new water supply sources, despite repeated efforts by the MCMUA to do so. Thus, the Randolph Township water utility has a finite water capacity available for its present customers and, most importantly for the purposes of this Plan, its future growth.

Randolph has a documented history related to water scarcity, which includes local policy changes to address water conservation. In an effort to conserve water, the Township council adopted new lawn watering regulations in May of 2007 for properties which receive water provided by the Township of Randolph and the Town of Dover. These regulations impose restrictions on residential lawn watering during the summer months and supplement Chapter 50, Water and Sewers, of the Revised Ordinances of the Township of Randolph. This local policy is in line with the Highlands Council’s encouragement and support for the development of municipal-wide water conservation ordinances. Additionally, the review of the Township’s Highlands Master Plan Element in 2013 requested that the “Township work with the Highlands Council to develop a comprehensive Water Use and Conservation Management Plan to be funded in the later stages of Plan Conformance.” Overall, water is a resource that the Township has focused on managing in order to continue developing sustainably, and the Township is utilizing much of its water supply capacity to provide for the development of affordable housing.

D. HOUSING, DEMOGRAPHIC AND EMPLOYMENT INFORMATION

The following detailed Housing, Demographic, and Employment background information regarding Randolph helps to describe and create an inventory of characteristics in the Township of Randolph that directly apply to current and future housing demand in the town and region. This analysis will include population demographics, housing characteristics, regional comparison, and recent trends.



1. Analysis of Population and Demographics

The following tables look to analyze the population trends in Randolph from the decennial Census and American Community Survey data. An analysis of population demographics in a target area can help a community to understand and plan for the range of people that live and work within its borders. Also, local population demographics understood in the context of and compared to the larger regional area provides a unique opportunity to understand larger geographic implications of present conditions and future local and regional opportunities. This demographic profile was broken down into functional areas including: analyses of community demographics, housing stock, and employment data.

Population

Table 1, which depicts the population change since 1930, shows that from 1940 to 1970, the Township saw a significant increase in population. The numbers demonstrate that the population spiked mostly between the 1950s and 1970s, and subsequently the Township saw a less extreme, but consistent increase thereafter throughout the 1980s, 1990s, and 2000s. Since the 2000s, the Township of Randolph has experienced minor fluctuations as increases in population that have become less volatile in recent years, dropping to a 3.6% increase between 2000 and 2010, and a 0.7% increase between 2010 and 2017.

Randolph's largest increase in growth occurred from the 1940s to the 1960s. The Township's population experienced a near doubling during the 1940s, and then increase by 70% and 82% thereafter in the 1950s and 1960s, despite the Township losing a population count of approximately 1,000 due to the incorporation of the Victory Gardens Borough from Randolph in 1951. The population continued on a steadier incline with a 34% increase during the 1970s. In recent years, the Township's population has shown signs of stabilization, with increases under 15% in the 1980s, with the largest increase between 1990 and 2000 with 24%.

When compared to Morris County as a whole (Table 2), the Township has experienced similarly modest and steady increases from 2000 through 2020. Both the County and the Township saw modest increases in population during the 1990s, and mirrored subsequent lesser increases during the 2010s.

Table 1: Population 1930-2020, Township of Randolph		
Year	Total Population	% change
1930	2,165	--
1940	2,160	-0.23%
1950	4,293	98.8%
1960 *	7,295	69.9%
1970	13,296	82.3%
1980	17,828	34.1%
1990	19,974	12.0%
2000	24,847	24.4%
2010	25,734	3.6%
2020	26,504	2.9%

Source: U.S. Bureau of the Census, Decennial Censuses

*Victory Gardens Borough was incorporated from Randolph in 1951 with a population of 1,085.

Table 2: Population 1990-2020 Township of Randolph and Morris County				
	Randolph	% Change	Morris County	% Change
2000	24,847	--	470,212	--
2010	25,734	3.6%	492,276	4.7%
2020	26,504	2.9%	509,285	3.5%

Source: U.S. Bureau of the Census, 2000-2010 Decennial Censuses and 2013-2017 American Community Survey 5-Year Estimates

Age Characteristics

Understanding the age make up of a community is important when planning for new housing, resources, and the future of the Township as a whole. Looking at a further breakdown of population data by age and sex, it shows that the Township's population is concentrated in specific age cohorts. Table 3 to the right depicts that nearly 34% of the population is 40-59 years old, while another 27% is 0-19 years old. Age cohorts ranging from 20-39 years old make up 20% of the population, while those over 60 make up 19%. These age cohorts generally suggest that Randolph consists largely of families with middle-aged parents and children.

Table 4 complements the data and compares it to that of Morris County as a whole. It depicts the steady increase of the age cohort of 18 to 24 year olds in both Randolph and Morris County from 2000 to 2017 – for Randolph from 5.1% to 8.8% to 9.1%, and for Morris County from 6.4% to 9.8% to 11%, respectively. Contrastingly, both the County and Township saw steady declines in the under 5 population, suggesting that less children are being born or less families with small children are moving here in recent years.

Both Morris County and Randolph have seen a steady decline in the proportion of persons in the 25 to 34 age cohort with numbers in 2000 recorded at 13.4% and 12.4%, respectively, and 10.9% and 10.2% in 2020, respectively. Additionally, Randolph experienced the most significant increase in the proportion of the 55 and over population, which

doubled between 2010 and 2020. Morris County as a whole saw the 55 to 64 age cohort remain relatively stable; however, the 65 and over population likewise jumped at the county level from 11.4% in 2010 to 17.1% in 2020. There was a slight uptick in the 35 to 44 age cohort between 2000 and 2010, which later sharply declined by almost 5% according to the 2017 numbers; however, Morris County saw a steady decline from 2000 onward in this age cohort. The 34 to 44

Table 3: Population by Sex and Age 2020 ACS, Township of Randolph			
	All	Female	Male
Total Population	25,496	12,758	12,738
Under 5 years	1,285	561	724
5 to 9 years	1,705	850	855
10 to 14 years	1,620	788	832
15 to 19 years	2,522	1,072	1,450
20 to 24 years	1,188	617	571
25 to 29 years	898	489	409
30 to 34 years	1,719	921	798
35 to 39 years	1,404	758	646
40 to 44 years	2,170	963	1,207
45 to 49 years	1,609	876	733
50 to 54 years	2,343	1,259	1,084
55 to 59 years	2,053	1,043	1,010
60 to 64 years	1,490	767	723
65 to 69 years	1,359	587	772
70 to 74 years	875	441	434
75 to 79 years	440	243	197
80 to 84 years	375	228	147
85 years and over	441	295	146
Median age (years)	40.9	41.3	40.4

Source: U.S. Bureau of the Census, 2020 American Community Survey 5-Year Estimates



age cohort saw an opposite trend, with significant decreases over 5% in the population proportion for both the Township and County between 2010 and 2020. Overall, the fluctuations between the age cohorts suggest that the age makeup of Randolph, and in Morris County overall, has been shifting over time.

**Table 4: Population by Age 2000-2020,
Township of Randolph and Morris County**

Age	2000				2010				2020			
	Randolph		Morris County		Randolph		Morris County		Randolph		Morris County	
	#	%	#	%	#	%	#	%	#	%	#	%
Under 5	1,881	7.6	32,466	6.9	1,307	5.1	28,739	5.9	1,285	5.0	24,649	5.0
5 to 17	5,441	21.9	83,822	17.8	6,415	25.0	101,524	20.7	4,779	18.7	79,467	16.2
18 to 24	1,272	5.1	30,043	6.4	2,249	8.8	47,948	9.8	2,256	8.8	42,022	8.5
25 to 34	3,089	12.4	62,924	13.4	3,139	12.2	62,877	12.8	2,617	10.2	53,913	10.9
35 to 44	4,915	19.8	87,939	18.7	5,266	20.5	85,634	17.5	3,574	14.0	60,430	12.3
45 to 54	4,221	17.0	71,707	15.2	3,963	15.5	71,385	14.6	3,952	15.5	75,519	15.3
55 to 64	2,038	8.2	40,900	8.7	1,729	6.7	35,252	7.2	3,543	13.9	72,539	6.9
65 & Over	1,824	7.3	54,461	11.6	1,582	6.2	56,452	11.5	3,490	13.7	84,176	17.1
Total	24,847	100	470,212	100	25,650	100	489,811	100	25,496	100	492,715	100

Source: U.S. Decennial Censuses, 2000, and 2010, and 2020 American Community Survey 5-Year Estimates

Race

Table 5 shows the racial breakdown of the population according to responses from the 2020 Decennial Census. Over 90% of the population responded as “One Race,” with 69.5% responding as White. The next largest racial group in Randolph is Asian at 12.1%, followed by 2.9 percent responding as Black or African American and 9.8 percent responding as “two or more races”.

Household Size and Characteristics

In addition to population demographics, household size in relation to the population helps to characterize the Township. Using Decennial Census data from 2000 and 2010 and 2020 ACS data, Table 6 below shows that the Average Household Size in Randolph has fluctuated marginally from 2000 to 2020, in conjunction with a steady increase in population and a similar fluctuation in the number of occupied housing units. Morris County as a whole saw a similar fluctuation in the average household size from 2.72 to 2.68 to 2.62. Unlike Randolph, Morris County as a whole experienced an increase in population with a fluctuation in total households between 2000 and 2020.

**Table 5: Population by Race, 2020
Township of Randolph, NJ**

	#	%
One Race	23,917	90.2
White	18,436	69.5
Black or African American	793	2.9
American Indian/Alaska Native	31	0.12
Asian	3,217	12.1
Native Hawaiian/Other Pacific Islander	7	0.03
Some Other Race	1,433	5.4
Two or More Races	2,587	9.8
Total population	26,504	100.0

Source: 2020 U.S. Decennial Census.

	Table 6: Households and Population 2000 to 2020, Township of Randolph and Morris County								
	2000			2010			2020		
	HH Population	Total Households	Avg HH Size	HH Population	Total Households	Avg HH Size	HH Population	Total Households	Avg HH Size
Randolph	24,847	8,679	2.86	25,734	9,013	2.85	26,504*	9,130	2.78
Morris County	470,012	169,711	2.72	492,276	189,842	2.68	509,285*	181,184	2.66

Source: U.S. Decennial Census, 2020 ACS 5-Year Estimates
*Values utilized from 2020 Decennial Census, while other household characteristics from ACS

Table 7: Household Size, 2020 Township of Randolph		
Household Size	Number of Households	Percent
1-person household	1,752	19.4
2-person household	2,613	29.0
3-person household	1,762	19.5
4-or-more-person household	2,895	32.1
Total Households	9,130	100

Source: U.S. Decennial Census, 2020 ACS 5-Year Estimates

Table 7 shows that household sizes in occupied housing units was highest for 4 persons in Randolph 32.1%, closely followed by 2 persons at 29%.

The American Community Survey was utilized to evaluate Randolph income characteristics compared to Morris County as a whole. Table 8 demonstrates that the per capita income and the median household income in Randolph, \$59,088 and \$156,339, are both higher than the County per capita income and median household income, \$53,491 and \$130,058.

In addition to a higher per capita income, fewer Randolph residents are living below the poverty level. Based on the 2020 American Community Survey (Table 8) 2.4% of Randolph residents

compared to 2.9% of Morris County residents are living below the poverty level. Compared to the State of New Jersey as a whole, Randolph fares better economically.

Table 8: Income Characteristics – 2020 ACS, Township of Randolph and Morris County			
	Township of Randolph	Morris County	State of New Jersey
Median Household Income	\$142,459	\$115,527	\$82,545
Mean Income	\$181,522	\$155,396	\$114,691
Per Capita Income	\$59,088	\$53,491	\$37,538
Percent of Persons Below Poverty Level	2.4%	2.9%	10.9%

Source: Selected Economic Characteristics, 2020 American Community Survey 5-Year Estimates

The income limits in Table 9 were produced by the Affordable Housing Professionals of New Jersey in 2018 to set the Affordable Housing Regional Income Limits. The table shows the very low income, low income, and moderate-income thresholds for Region 2, including Morris County, for each household size. Specific rows are for calculating the pricing for one and three-bedroom sale and rental units per N.J.A.C. 5:80-26.4(a).



**Table 9: Affordable Housing Professionals of New Jersey
2022, Affordable Housing Regional Income Limits
Region 2 - Morris County, New Jersey**

Household Size	Moderate Income	Low Income	Very Low Income
1 Person	\$64,507	\$40,317	\$24,190
1.5 Persons*	\$69,115	\$43,197	\$25,918
2 Persons	\$73,723	\$46,077	\$27,646
3 Persons	\$82,938	\$51,836	\$31,102
4 Persons	\$92,154	\$57,596	\$34,558
4.5 Persons*	\$95,840	\$59,900	\$35,940
5 Persons	\$99,526	\$62,204	\$37,322
6 Persons	\$106,898	\$66,811	\$40,087
7 Persons	\$114,270	\$71,419	\$42,851
8 Persons	\$121,643	\$76,027	\$45,616

Source: Affordable Housing Professionals of New Jersey
 * These are for calculating the pricing for one and three-bedroom sale and rental units per N.J.A.C. 5:80-26.4(a)

2. Analysis of Housing Characteristics

Age of Housing

Randolph is a substantially developed community. Population spikes in from the 1960s to 1980s were caused by a large increase in the number of houses being built during this time. From 1960 to 1979, 3,271 houses were built and then, from 1980 to 1999, another 3,427 houses were built. From 1950 to 1990 there was an increase of nearly 15,000 people, which correlates to the spike in residential construction. The Township continued to experience construction to a lesser extent through 2009 and beyond.

The continued population growth through 2010 occurred in conjunction with the construction of an additional 500 homes during that same period. The population has begun to show signs of leveling off. There was only a 3.6% increase in population from 2000 to 2010, and the 2020 American Community Survey estimates that from 2010 to 2020 there has only been a 2.9% increase in population. This is echoed in Table 10 which demonstrates an estimate that there have only been 393 houses built since 2010. Due to continued construction, the age of housing in Randolph is more evenly distributed than Morris County as a whole. Whereas nearly 72% of Randolph's housing was built between 1960 and 1999, comparatively, Morris County has 54.4% in the same period. Morris County has a larger share of housing built prior to 1959, with 34.6%, while Randolph has 18.8%. Construction since 2000 has been comparatively close for Randolph and Morris County, with 9.5% and 11%, respectively.

Table 10: Age of Housing – 2020 ACS, Township of Randolph and Morris County				
Year Housing Unit Built	Township of Randolph		Morris County	
	Number of Units	Percent	Number of Units	Percent
2014 or later	271	2.9	3,689	1.9
2010 – 2013	122	1.3	3,041	1.6
2000 – 2009	500	5.3	14,523	7.5
1990 – 1999	1,778	19.0	23,691	12.2
1980 – 1989	1,649	17.6	24,862	12.8
1970 – 1979	1,933	20.7	26,461	13.6
1960 – 1969	1,338	14.3	30,900	15.9
1950 – 1959	1,068	11.4	29,935	15.4
1940 – 1949	395	4.2	12,238	6.3
1939 or earlier	302	3.2	25,086	12.9
Total	9,356	100%	194,426	100%

Note: Figures may not add due to rounding

Source: 2020 American Community Survey 5-Year Estimates

Table 11 show that the number of residential building permits from 2010 onward has increased steadily. This depiction is likely skewed due to the economic recession period through most of 2012. As an example of the impact of this, from 2010 to 2012, 45 building permits were issued, and comparatively, 190 were issued from 2014 to 2016. Data from 2017 showed a large incline in residential development, with 93 building permits issued that year alone; however, data through 2018 showed a recent decline with just 36 building permits issued and a decline yearly thereafter. This data may suggest that the scarce resource of water in the Township has an impact on development patterns, and may cause an unpredictable fluctuation over time.

Table 12 shows the housing size by the number of rooms, and compares Randolph to Morris County as a whole. In general, Randolph has a larger number of occupied housing with more rooms, with 70.6% of housing have 6 or more rooms. Of that proportion, 52.9% is accounted for by 8 or more rooms. In comparison, Morris County has 65.5% of occupied units with 6 or more rooms, with 39.5% comprised of 8 or more rooms. Morris County as a whole has a more even distribution of housing sizes, but still has a large share of housing with multiple rooms with 88% of housing having 4 or more rooms.

Table 11: Residential Building Permits, 2010-2021 Township of Randolph	
Year	Residential Building Permits
2010	2
2011	5
2012	20
2013	18
2014	71
2015	61
2016	40
2017	93
2018	36
2019	15
2020	1
2021	31
Total	393

Source: New Jersey Department of Labor and Workforce Development



**Table 12: Housing Size by Number of Rooms - 2020 ACS,
Township of Randolph and Morris County**

Number of Rooms	Morris County		Township of Randolph	
	Number of Units	Percent	Number of Units	Percent
1 Room	2,858	1.5	188	2.0
2 Rooms	3,748	1.9	263	2.8
3 Rooms	16,666	8.6	967	10.3
4 Rooms	22,322	11.5	623	6.7
5 Rooms	21,418	11.0	712	7.6
6 Rooms	24,761	12.7	590	6.3
7 Rooms	25,847	13.3	1064	11.4
8 or more Rooms	76,806	39.5	4,949	52.9
Total	194,426	100%	9,356	100%

Source: 2020 American Community Survey 5-Year Estimates

Note: Percentages May Not Add Due to Rounding

The vast majority of housing in Randolph is owner-occupied, with 76% of all occupied housing as owner-occupied. Just under 25% of all occupied housing in Randolph is renter occupied.

The total vacancy rate in the Township is 3.6%, based on the 2020 ACS, which estimated that 334 units were vacant out of 9,356 total units. The vacancy rate for owner occupied is 0.9m while the renter vacancy rate is 2.7.

Table 14 shows the value of owner-occupied housing reported by the 2020 American Community Survey. Based on the data

provided, the majority of the housing in Randolph at 58.5%, is valued between \$500,000 and \$999,999. The next most common bracket for housing value is \$300,000 to \$499,999 at 34.6%, meaning that over 90% of the housing in Randolph is valued between \$300,000 and \$999,999. Similarly, the majority of housing located within Morris County at 40.3% is valued between \$300,000 and \$499,999. However, housing values in the County are more evenly distributed in the lower values, with 16.8% of housing valued under \$299,999, whereas Randolph's housing stock is comprised of 5.3% for this bracket. Contrastingly, the share of housing valued at \$1 million or more is 1.6% for Randolph, while the County has 6.1% of its housing valued in this bracket.

**Table 13: Tenure and Housing Vacancy Rates, 2020 ACS
Township of Randolph**

	Total
Total Housing Units	9,356
Occupied Units	9,022
Vacant Units	334
Homeowner Vacancy Rate	0.9
Rental Vacancy Rate	2.7

Source: 2020 American Community Survey 5-Year Estimates

Housing Value	Township of Randolph		Morris County	
	Number of Units	Percent	Number of Units	Percent
Under \$50,000	58	0.8	1,120	0.8
\$50,000 to \$99,999	6	0.1	1,239	0.9
\$100,000 to \$149,999	36	0.5	1,232	0.9
\$150,000 to \$199,999	36	0.5	3,216	2.4
\$200,000 to \$299,999	230	3.4	16,004	11.8
\$300,000 to \$499,999	2,368	34.6	54,819	40.3
\$500,000 to \$999,999	4,009	58.5	50,010	36.8
\$1,000,000 or more	107	1.6	8,347	6.1
Total	6,850	100%	135,987	100%

Note: Figures may not add due to rounding.

Source: Value of Owner-occupied housing units, 2020 American Community Survey 5-Year Estimates

Table 15 depicts that the majority of rent levels in Randolph were found to be between \$1,000 and \$1,499, with 40.4% reported falling in that range, and a very close second 39.4% had rents of \$1,500 to \$1,999. While 3.9% responded with “less than \$500”, this reporting may be family contributions or informal rent situations, considering that the other 90% of rental housing was estimated to be \$1,000 or more.

Table 15: Rent Levels, 2020 ACS Township of Randolph		
Rent	Number of Units	Percent
Less than \$500	81	3.9
\$500 to \$999	98	4.7
\$1,000 to \$1,499	839	40.4
\$1,500 to \$1,999	818	39.4
\$2,000 to \$2,499	106	5.1
\$2,500 to 2,999	77	3.7
\$3,000 or more	57	2.7
Total Occupied Rental Units	2,076	100
Median Rent (Dollars)	\$1,512	

Source: 2020 American Community Survey 5-Year Estimates

3. Analysis of Employment Characteristics

Historical employment data and trends for Randolph Township are illustrated in Table 16, which shows covered employment by general sector for 2019. The annual average number of covered jobs in Randolph for that year was 8,593. Almost 79 percent of those jobs were in the private sector and 21 percent of the covered employment was within the local government. Covered employment, which is jobs in both the private and public sectors that are covered by unemployment insurance, is reported by the New Jersey Department of Labor and Workforce Development on a



quarterly basis. These are jobs found within the Township and should not be confused with data for employed individuals residing in Randolph.

Table 16: Covered Employment Summary, 2019						
Sector	March	June	September	December	Annual Average	
					Number	Percent
Federal	5	5	4	4	5	0.0
State	15	16	16	16	16	0.19
Local	1,916	1,773	1,929	2,096	1,807	21.0
Private	6,099	6,587	6,220	6,237	6,766	78.7
Total	8,544	8,668	8,593	8,846	8,593	100

Source: New Jersey Department of Labor and Workforce Development, Quarterly Census of Employment and Wages

Based on the “Major Employers in Morris County, 2018” prepared by the Morris County Office of Planning and Preservation, there are a number of major employers in the County with 500 employees or more. Table 17 depicts entities who employ over 500 people and it is not reflective of all of the businesses and employers within the County. There are more than 450 businesses located within Randolph’s border, which largely include businesses that offer retail services.

Table 17: Morris County, Major Employers 2018	
Employer	
Picatinny Arsenal	
Atlantic Health System	
Novartis	
Bayer	
ADP	
Wyndham Worldwide	
Accenture	
Honeywell	
Allergan	
St. Clare's Health System	
Barclays	
County of Morris	
PricewaterhouseCoopers	
BASF	
Greystone Park Psychiatric Hospital	
Realogy Holdings Corp.	
Deloitte & Touche	
Mondelēz International	
Tiffany & Co.	
Avis Budget Group, Inc.	
UPS	
Arconic (former Alcoa Howmet)	
GAF	
Reckitt Benckiser	

MetLife
Lincoln Park Care Center
Pfizer
Zoetis
County College of Morris
Siemens Health Care Diagnostics

Source: "Major Employers in Morris County, 2018" prepared by the Morris County Office of Planning and Preservation

The Township of Randolph is highly educated, with over 60% of residents attaining a Bachelor's degree or higher, including 26.2% having a graduate or professional degree.

Finally, Table 19 shows the most common industries and occupations for residents broken down by gender. In general, 17% of males in Randolph are employed in the Professional, Scientific, and Technical Services industry, with the next largest industry is Finance and Insurance industry at 9%. On the other hand, 16% of women are employed in educational services, while their second largest industry is Health Care at 12%.

Finally, Table 19 shows the Quarterly Census of Employment and Wages (QCEW) for Randolph, which is a quarterly count of employment, establishments, and wages reported by employers covered under the New Jersey Unemployment Compensation law. The QCEW covers more than 95 percent of New Jersey jobs available at the state, county, and municipal level, by detailed industry.

Table 18: Education and Employment Data for Randolph

For population 25 years and over	
Associate's degree	1,065
Bachelor's degree	5,986
Master's degree	3,866
Professional school degree	1,127
Doctorate degree	533

Source: 2020 American Community Survey-5 Year Estimates

Table 19: Annual Municipal Data by Sector, 2019
Quarterly Census of Employment and Wages
Township of Randolph, Morris County, New Jersey

Description	Count	Share
Agriculture, Forestry, Fishing and Hunting	5	0.1%
Mining, Quarrying, and Oil and Gas Extraction	0	0.0%
Utilities	0	0.0%
Construction	688	11.2%
Manufacturing	577	9.4%
Wholesale Trade	636	10.4%
Retail Trade	692	11.3%
Transportation and Warehousing	84	1.4%
Information	69	1.1%
Finance and Insurance	101	1.6%
Real Estate and Rental and Leasing	91	1.5%
Professional, Scientific, and Technical Services	456	7.4%
Management of Companies and Enterprises	4	0.1%
Administration & Support, Waste Management and Remediation	511	8.3%
Educational Services	233	3.8%
Health Care and Social Assistance	820	13.4%



Table 19: Annual Municipal Data by Sector, 2019
Quarterly Census of Employment and Wages
Township of Randolph, Morris County, New Jersey

Description	Count	Share
Arts, Entertainment, and Recreation	259	4.2%
Accommodation and Food Services	504	8.2%
PRIVATE SECTOR TOTALS	6,141	

Source: New Jersey Department of Labor and Workforce Development

Table 20 provides commuting characteristics of Randolph Residents based on the 2020 American Community Survey. About 62% of Randolph residents worked in Morris County, while 7.6% of residents commuted out of state for work. An additional 30.5% worked outside of their County, but within New Jersey. The mean travel time to work for Randolph workers was 34.4 minutes – with majority of people utilizing a vehicle to drive alone at 86.3%.

Table 20: Commuting Characteristics Township of Randolph	
Place of Work	Estimates (%)
Worked in State	92.4
Worked in County of residence	62.0
Worked outside County of residence	30.5
Worked outside State of residence	7.6
Travel Time to Work	
Less than 10 minutes	6.3
10 to 14 minutes	8.0
15 to 19 minutes	10.4
20 to 24 minutes	14.9
25 to 29 minutes	7.2
30 to 34 minutes	15.9
35 to 44 minutes	9.8
45 to 59 minutes	13.4
60 or more minutes	14.2
Mean travel time to work	34.4
Means of Travel	
Car, truck, or van -- drove alone	86.3
Car, truck, or van -- carpooled	5.8
Public transportation (excluding taxicab)	3.1
Walked	0.9
Bicycle	0.0
Other Means	0.6
Worked from Home	9.1

Source: Commuting to Work, 2020 American Community Survey-5 Year Estimates

According to the New Jersey Transportation Planning Authority, as of 2015, there was a population of 25,868 in the Township of Randolph. By 2050, the NJTPA projects the population will grow to 27,396, or 0.2% over a 35-year period.

Table 21: Population Projection Township of Randolph			
Year	Population	Change (#)	Percent Change
2015	25,868	-	-
2050	27,396	1,528	0.2%

Source: NJPTA Employment Forecast by County and Municipality 2015-2050

The same data retrieved from the New Jersey Transit Planning Authority reported that in 2015 there were 8,681 jobs in the Township of Randolph. By 2050, the Township is expected to have 9,981 jobs. This reflects a 1,300 job increase or 0.4% increase over current conditions. This is an increase of roughly 37 jobs per year.

Table 22: Employment Projection Township of Randolph			
Year	Population	Change (#)	Percent Change
2015	8,681	-	-
2050	9,981	1,300	0.4%

Source: NJPTA Employment Forecast by County and Municipality 2015-2050

4. Projection of Township Housing Stock

As per MLUL, specifically, N.J.S.A. 52:27D-310.b, a housing element must contain a projection of the municipality's housing stock, including a projection of future construction of low- and moderate-income housing for the next ten years, taking into account, but not limited to, construction permits issued, approvals of applications for development and probable residential development of lands.

The Department of Community Affairs' Division of Codes and Standards website provides data on Certificates of Occupancy and demolition permits for both residential and non-residential development. Within the Division of Codes and Standards website is the New Jersey Construction Reporter, which contains building permit, certificate of occupancy and demolition data that is submitted by the municipal construction officials within the State each month. The New Jersey Construction Reporter has information dating back to 2000, which can be used to show the Township's historic development trends.

As shown in Table 23, 218 new housing units were issued Certificates of Occupancy (CO) from 2010 to 2021. During the 12 year period, 56 housing units were demolished. This yields a net gain of 162 housing units over the past 12 years, or an average of about 13 units per year.



Table 23: Historic Trend of Certificates of Occupancy and Demolition Permits, Township of Randolph

Type	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total
CO	5	5	8	18	11	1	29	65	47	12	12	5	218
Demo	8	1	1	2	7	6	10	6	1	9	1	4	56
Net	-3	4	7	16	4	-5	19	59	46	3	11	1	162

Source: NJDCA Housing Units Certified and Demolition Permits Issued

Projecting into the future, the Township anticipates a large number of units that are part of this plan and currently under construction or commencing construction shortly.

Lastly, the Township projects 10 years out for residential development between the present and 2031. The projected development includes an extrapolation of the historic trend of residential certificates of occupancy, and anticipated development through the projects in this Plan. Based on the data below, the Township anticipates residential certificates of Occupancy between now and the end of 2031, based upon the measures the Township is taking to implement its settlement agreement. Table 24 below provides a loose approximation of the timing of residential development based upon this Plan intended to depict that units will be constructed over time in the next 10 years and is no way an exact prediction.

Table 24: 10-Year Projection of Residential Development, Township of Randolph

Type	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
1. Approved Development Applications	334	--	--	--	--	--	--	--	--	--	334
2. Approved Development Permits Issued	128	--	--	--	--	--	--	--	--	--	128
3. Projected Historic Trends	13	13	13	13	13	13	13	13	13	13	130
4. Other Projected Development	--	--	1,029	--	--	--	--	--	--	--	1,029
Total Projected Development	475	13	1,042	13	1,621						

Of the 1,621 projected new residences between now and 2031, approximately 20% of the units are anticipated to be reserved for low- and moderate-income households in the Township (Table 25).

Table 25: Projection of Affordable Units Township of Randolph											
Type	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total
1. Approved Development Applications	68	--	--	--	--	--	--	--	--	--	68
2. Approved Development Permits Issued	43	--	--	--	--	--	--	--	--	--	43
3. Other Projected Development	--	--	209	--	--	--	--	--	--	--	209
Total Projected Development	111	--	209	--	320						

5. A Consideration of Lands of Developers Who Have Expressed a Commitment to Provide Affordable Housing

Pursuant to the Fair Housing Act (N.J.S.A.52:27D-310 (f)) and the Municipal Land Use Law C.40:55D-28b(3), a Housing Element must include “a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.” Thus, it is the Township’s responsibility to consider sites offered for affordable housing. However, the Township does not have an obligation to include every parcel a developer has proposed. In this case, a number of developers have expressed interest in the construction of affordable housing and their sites have been included in this plan.



III. THIRD ROUND FAIR SHARE PLAN

A. FAIR SHARE OBLIGATIONS

It is well established that the Township has a 33-unit rehab obligation and a 261-unit prior round obligation. The Township has a 643-unit cumulative Third Round obligation based upon the fair share methodology calculated by the Richard Reading report dated July 17, 2018, which was prepared for Morris County at the direction of the Honorable Maryann L. Nergaard, JSC by Court Order of June 20, 2017. These obligations were based upon the application of the principles elucidated in the Mercer County Opinion decided upon by the Honorable Judge Mary C. Jacobson in her opinion dated March 8, 2018, for the determination of each of the categories of affordable housing need for the municipalities located in Morris County. The following chart illustrates the numbers for the Prior Round and the Third Round. These numbers serve as the basis for establishing what fair share obligations the Township will be targeting in this Housing Element and Fair Share Plan.

Table A: Fair Share Obligations Richard Reading Report on the “Determination of Low and Moderate Income Housing Needs in Morris County Based Upon the Mercer County Opinion”, dated July 17, 2018	
Rehabilitation Obligation	33
Prior Round Obligation (1987-1999)	261
Gap Present Need (1999-2015): 252	Total (1999-2025): 643
Prospective Need (2015-2025): 391	
Total Obligation:	937

B. RANDOLPH'S CAPACITY TO ACCOMMODATE GROWTH

As described above, Randolph is located in the Highlands Region, which has regulations that are aimed at restricting development in environmentally sensitive areas within the region. The Township has provided an engineering report on the availability of water and sewer infrastructure for affordable housing development under Appendix C.

C. SATISFACTION OF REHABILITATION OBLIGATION

The Township has a 33-unit rehabilitation obligation. In the past, the Township has participated in the Morris County Department of Community Affairs HOME program for housing rehabilitation. The program uses Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) funding (See Appendix I). The Township will continue to work with the Special Master to evaluate whether a rental rehabilitation program must be administered by the Township.

Based on the percentage of renter-occupied housing as depicted in Table 13, the number of rental rehabilitations would be approximately 7 units of the total 33-unit obligation. According to additional Census information, approximately one-third of units were built after 1980, one-third were built in the 1970s, and one-third were built prior to 1970. Considering the relatively small

number of units for a rehabilitation program, the Special Master shall evaluate if a dedicated program is necessary based on this information. Despite the lack of a determination, the Township has preemptively set aside affordable housing trust funds within their Spending Plan for at least 7 renter-occupied units at an average of \$10,000 per unit, or \$70,000 (See Appendix H). If determined to be necessary, the Township would contract with a qualified agency to implement this rental rehabilitation program until the minimum rental units prescribed have been completed. The Township would continue to participate in the Morris County HOME Program for owner-occupied units until the remaining rehabilitation obligation was fully satisfied.

D. PRIOR ROUND COMPLIANCE

In 2016, the Court entered an Order confirming that Randolph satisfied its Prior Round obligation of 261 units, which acknowledged that COAH had previously awarded credit to certain units in its December 1, 2005 compliance review. In light of the Court's Order awarding credit to the units, it is well established that the Township has had a history of compliance, and in particular has satisfied its Prior Round obligation. A copy of the Court Order declaring that the Township has fulfilled its prior round obligation is contained in Appendix B. The following sections provide a detailed overview of Prior Round crediting.

1. Prior Round Rental Obligation

The prior round rental obligation is 25% of 261, or 66 units. The Township is applying thirty-eight (38) rental units from the Canfield Mews project (Block 42, Lots 1 and 1.01); twenty-seven (27) rental units from the Arrowgate project (Block 42, Lots 122.01); and one (1) rental unit from the Habitat House project (Block 59, Lot 15). The Township therefore satisfies its 66-unit rental obligation.

2. Prior Round Age-Restricted Cap

COAH's Round 2 regulations permit a total of 25 percent of the new construction obligation (with certain caveats that are not applicable to Randolph) to be satisfied with age-restricted housing. Based upon this, the Township is eligible for 25% of 261 units, or a total of 65 age-restricted housing units are permitted to be credited against the Prior Round obligation. Overall, the Township is applying sixty-five (65) age restricted units from its completed India Brook Senior Housing project to the Prior Round.

3. Prior Round Rental Bonus Credits

In accordance with N.J.A.C. 5:93-5.15(d), the Township is entitled to rental bonus credits generated by projects described below, up to the maximum of sixty-six (66) rental bonuses for which it is eligible based on 25% of its 261-unit Prior Round obligation. The Township is claiming a total of 65 bonus credits, including: thirty-eight (38) rental bonus credits from the Canfield Mews rental project (Block 42, Lots 1 and 1.01); twenty-seven (27) rental bonus credits from the Arrowgate rental project (Block 42, Lot 122.01); and one (1) out of the four (4) total special needs bedrooms in the Peer Group Housing project (Block 17, Lot 18).



4. Satisfaction of Prior Round Obligation

The Township enters Third Round having satisfied the entirety of its Prior Round obligation. The Township has a 261-unit Prior Round obligation, and has satisfied that obligation as follows:

**Table A. Prior Round Affordable Housing Fulfillment
Township of Randolph, Morris County, NJ**

1987-1999 Prior Round Obligation	261				
	Set-Aside Credits	Low	Mod	Bonus Credits	Total
<i>Inclusionary Rental Projects</i>	65	33	32	65	130
Canfield Mews <i>(Block 42, Lots 1 and 1.01)</i>	38 (R)	19	19	38	76
Arrowgate <i>(Block 42, Lot 122.01)</i>	27 (R)	14	13	27	54
<i>Inclusionary For-Sale Projects</i>	50	25	25	-	50
Brookside Village <i>(Block 224, Lot 79.01)</i>	10 (R)	5	5	-	10
Woodmont <i>(Block 119, Lot 109.11)</i>	40 (S)	20	20	-	40
Prior Cycle Credits – Age-Restricted	65	33	32	-	65
India Brook Senior Housing – 100% Affordable (Age-Restricted) <i>(Block 93, Lot 56.01)</i>	65 (ARR)	33	32	-	65
Group Homes and Supportive Needs	15	15	-	1	16
Peer Group Housing <i>(Block 17, Lot 18)</i>	4 (SNR)	2	2	1	4
ARC, Much Dignity House <i>(Block 176, Lot 82)</i>	6 (GH)	6	-	-	6
Schoolhouse Group Home <i>(Block 82, Lot 30)</i>	5 (GH)	5	-	-	5
TOTAL PRIOR ROUND CREDITS	195	106	89	66	261

(R) = Rental

(GH) = Group Home

(RCA) = Regional Contribution

(S) = For-Sale

(SNR) = Special Needs Rental

Agreement

(ARR) = Age-Restricted Rental

(M) = Medicaid Certificate

(BC) = Bonus Credit

a. **Detailed Summary of Prior Round Satisfaction**

(1) **180 existing affordable units** from the following constructed units:

a) 38 affordable rental units from the Canfield Mews development (Block 42, Lots 1 and 1.01). The development includes 17 low-income and 21 moderate-income affordable family, rental units. The effective date of the controls for the project began September 24, 1999, and expired in 2019.

Canfield Mews Affordable Unit Distribution			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	10	7	2
Moderate Income	9	6	4

b) 27 affordable rental units from the Arrowgate project (Block 42, Lot 122.01). The development includes 14 low-income and 13 moderate-income affordable family, rental units. The effective date of the controls for the project began in 1999, and expired in 2019.

Arrowgate Affordable Unit Distribution			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	7	5	2
Moderate Income	6	6	1

c) 10 affordable for-sale units from the Brookside Village project (Block 224, Lot 79.01). The development includes 5 low-income and 5-moderate income affordable, family rental units. The effective date of the controls for the project began December 31, 1998, and expired in 2018.

Brookside Village Affordable Unit Distribution			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	-	3	2
Moderate Income	-	3	2

d) 65 age-restricted rental units from the India Brook Senior Housing Project Block 93, Lot 56.01). The development is a 100% affordable project with 100 total age-restricted, affordable units. Due to the age-restricted cap for the Prior Round, only 65 credits are attributed to the Prior Round and the remaining 35 credits are attributed to the Third Round.



India Brook 100% Affordable Affordable Unit Distribution			
Income Distribution	Bedroom Distribution		
	Efficiency	1 BR	2 BR
Low Income	12	36	3
Moderate Income	13	33	3

e) 40 affordable for-sale units from the Woodmont Project (Block 119, Lot 109.11). The development includes 20 low-income and 20 moderate income affordable, for-sale family units. The effective date of the controls for the project began July 1, 1994, and were set to expire in 2014, but were extended for Third Round credit through 2044.

Woodmont Affordable Unit Distribution			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	10	7	3
Moderate Income	10	7	3

(2) 15 existing group home and supportive needs units from the following constructed units:

- a) 4 units from the 4-bedroom supportive needs housing known as Peer Group Housing (Block 17, Lot 18). The effective date of controls began December 1993, and with 20 year controls, expired in 2013.
- b) 6 low-income units from the 6-bedroom supportive needs housing known as ARC, Much Dignity House (Block 176, Lot 82). The effective date of controls began in 1993 and with 30 year controls, expire in 2023.
- c) 5 units from the 4-bedroom supportive needs housing known as Schoolhouse Group Home (Block 82, Lot 30). The effective date of controls began November 13, 1991 and with 30 year controls, expired in November 2021.

(3) 66 rental bonus credits out of the 66 maximum allowable.

- a) 38 rental bonus credits from the Canfield Mews rental project.
- b) 27 rental bonus credits from the Arrowgate rental project.
- c) 1 rental bonus credit from the Peer Group Housing special needs/group home project.

b. Prior Round Family Units Income and Bedroom Distribution

The following Table C demonstrates Prior Round compliance with the required bedroom and income distributions for family units. With a total of 115 family units attributed towards the Prior Round, the income distribution of the units is required to split 50% for each low- and moderate-income, and bedroom distribution is required to provide no more than 20% 1-bedroom units, at least 20% 2-bedroom units, and at least 20% 3-bedroom units. The Township shows a surplus of nineteen (19) 1-bedroom family units and a deficiency of four (4) 3-bedroom units.

Table C. Prior Round Bedroom and Income Distribution for Family Units				
Income Distribution	Bedroom Distribution			Totals
	1 BR	2 BR	3 BR	
Low Income	27	22	9	58 (50.4%)
Moderate Income	25	22	10	57 (49.5%)
Totals	52 (45.2%)	44 (37.9%)	19 (16.5%)	115



E. THE TOWNSHIP'S ALLOCATION OF THE THIRD ROUND REGIONAL NEED

The Township has a Third Round Prospective Need Obligation of 643, based upon the July 17, 2018 Richard Reading Report for Morris County, prepared as directed by the Honorable Maryann L. Nergaard, JSC by Court Order of June 20, 2017.

F. SATISFACTION OF THIRD ROUND OBLIGATION

1. Third Round Rental Obligation

COAH's Rules (at N.J.A.C. 5:93-1, et seq.) provide that at least 25 percent of the new construction component for Third Round must be satisfied with rental units. Therefore, based on the Township's obligation of 643, its rental obligation is 25 percent, or one-hundred and sixty-one (161) units. The Township has forty-three (43) existing rental units from the following projects: thirty-two (32) rental units from the Bennett Avenue Family Housing project (Block 191, Lots 7, 8, 11, 12 & 13 and Block 195, Lots 3 & 4) and eleven (11) from the cumulative 12 total special needs bedrooms – from the High Avenue House (Block 53, Lot 44), Our House (Block 35, Lot 28), Skylands Group Home (Block 50, Lot 6). Additionally, the Township anticipates at least one-hundred and twenty-one (121) rental units from the following proposed rental projects: three (3) rental units from the Elbaum Site (Block 97, Lots 26, 27.01, 27.02); fifteen (15) rental units from the KAB Mount Freedom Site (Block 224, Lot 5); forty (40) rental units from the Canoe Brook project (Block 44, Lot 25); forty-eight (48) rental units from the Avalon Bay-Berger Tract (Block 224, Lots 1-4 and 83-86); and fifteen (15) rental units from the Gateway Apartments project (Block 77, Lots 30-31). In total, this represents one-hundred and sixty-one (161) total rental units that may be applied to the Third Round obligation. Other projects, including the Franklin Road, Route 10, and Mount Freedom rezoning areas are anticipated to contribute additional rental units above the 25% obligation.

2. Third-Round Age-Restricted Housing

Applying COAH Second Round regulations, municipalities are permitted to age-restrict up to 25 percent of the Third Round obligation of 643, or one-hundred and sixty (160). The Township is applying thirty-five (35) units from the prior cycle, age-restricted India Brook Senior Housing site (Block 93, Lot 56.01); five (5) age-restricted units from the approved Grecco Realty, LLC project (Block 111, Lots 10-16); eight (8) assisted living beds from the Sunrise Assisted Living facility (Block 73, Lot 16); six (6) assisted living beds from the Brightview Assisted Living facility (Block 111, Lot 20.01); and twenty-five (25) age-restricted units from the proposed Heller site (Block 119, Lot 130) – for a total of seventy-nine (79) existing and proposed age-restricted credits – and therefore is well under the 160-unit cap.

3. Third Round Very Low-Income Housing Obligation

As a result of the July 2008, amendments to the Fair Housing Act, all municipalities have an obligation to ensure that at least 13 percent of the affordable units being provided town wide, 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, are affordable to very low income households (households that earn 30 percent or less of the median income).

The Township anticipates that additional very low-income units will be provided via future affordable housing projects – including the KAB Mt. Freedom Site (Block 224, Lot 5); Canoe Brook

Site (Block 44, Lot 25); LYS/Sporn Site (Block 44, Lot 4); Avalon Bay/Berger Tract (Block 224, Lots 1-4 and 83-86); E.A. Porter Site (Block 195, Lot 10); the Heller Site (Portion of Block 119, Lot 130), and through the rezoning of the Franklin Road, Route 10, and Mt. Freedom sites. The Township will ensure that the 13% very-low income obligation is satisfied through any new projects, and that any very-low income units built after 2008 are inventoried and accounted for.

**Table D. Very-Low Income Requirement
Randolph Township, Morris County, New Jersey**

Project Name	Status	Type	Affordable Units	13% Required VLI Units	VLI Units To Be Provided
KAB Mt. Freedom Site	Proposed	Family	15	2	2
Canoe Brook Site	Approved	Family	40	5	5
LYS Sporn/Toll	Approved	Family	28	4	4
Avalon Bay-Berger Tract	Proposed	Family	48	7	7
E.A. Porter Site	Approved	Family	25	3	3
Rezoning Sites (Franklin Road, Route 10, Mt. Freedom)	Proposed	Mix	112	15	15
Subtotal Family			268	36	36
Heller Site	Proposed	Age-Restricted	25	3	3
Subtotal Non-family			25	3	3
Totals			293	39	39
Percentage VLI					13.3%

Additionally, 50% of the very low income units shall be available to families. Currently, the proposed projects contribute thirty-six (36) VLI family units. This represents 92% of all VLI units in the Township.

4. Third Round Rental Bonus Credits

In accordance with N.J.A.C. 5:93-5.15(d), the Township will be entitled to rental bonus credits according to the maximum cap permitted. The COAH regulations do not provide a basis for the maximum cap for municipalities seeking an adjustment based on lack of water or sewer, only those seeking an adjustment based on lack of vacant land. However, to the extent that Randolph is entitled to any "bonus credits" to be applied to its Third Round obligation, such bonuses may be applied in accordance with N.J.A.C. 5:93-5.15(d). It is assumed based on the Third Round obligation of 643, the Township is permitted up to one-hundred and sixty-one (161) bonus credits.

The Township seeks credit for bonus credits on the following forty-three (43) existing rental unit projects: thirty-two (32) rental bonuses from the Bennett Avenue Family Housing project (Block 191, Lots 7, 8, 11, 12 & 13 and Block 195, Lots 3 & 4) and twelve (12) from the cumulative 12 total special needs bedrooms – from the High Avenue House (Block 53, Lot 44), Our House (Block 35, Lot 28), Skylands Group Home (Block 50, Lot 6). Additionally, the Township anticipates at least one-hundred and eighteen (118) rental bonus credits from the following proposed rental projects: fifteen (15) rental bonuses from the KAB Mount Freedom Site (Block 224, Lot 5); forty (40) rental bonuses from the Canoe Brook project (Block 44, Lot 25); forty-eight (48) rental bonuses from the Avalon Bay-Berger Tract (Block 224, Lots 1-4 and 83-86); and fifteen (15) rental bonuses from the



Gateway Apartments project (Block 77, Lots 30-31). In total, this represents one-hundred and sixty-one (161) total bonus credits that may be applied to the Third Round obligation.

5. Third Round Family Units

While not a specific requirement outlined under N.J.A.C. 5:93, the minimum number of Third Round Family Units has rather become a typical component included within Third Round Plans and Settlements. This minimum has typically been 50%, which represents 50% of the third round rental obligation and 50% of the very low income unit obligation. Therefore, the Township would require a minimum of 50% of the total Third Round Obligation less the bonus credits of 482, or 241 units.

While not a specific requirement outlined under N.J.A.C. 5:93, the minimum number of Family Rental Units has rather become a typical component included within Settlement Agreements. This minimum has typically been 50%, which represents 50% of the Third Round rental obligation. Therefore, the Township would require a minimum of 50% of the total required Third Round rental units, or one hundred and twenty-one (121) family rental units. The Township proposes to meet this obligation with at least one-hundred and seventy-two (172), from the following family rental projects: one (1) from the Rose of Sharon, 236 Dover-Chester Rd. set-aside; thirty-two (32) from the Bennett Avenue Family Housing project; fifteen (15) from KAB Mount Freedom Site; fifteen (15) from the Gateway Apartments project; forty (40) from the Canoe Brook site; thirty (30) from the Avalon Bay-Berger Tract; up to sixty-two (62) from the Route 10 sites rezoning; and up to thirteen (13) from the Mt. Freedom sites rezoning.

Additionally, 50% of the 482 total units being credited towards the Third Round, or 241 units, shall be available to families. Three-hundred and forty-seven (347) of the total units, or 72%, are proposed to meet and exceed this requirement.

6. Third Round Credits to Address Obligation

a. Existing and Approved Addressing the Third Round Obligation

The following Table B outlines the existing credits being applied to the Township's Third Round obligation.

Table B. Existing and Approved Addressing the Third Round Obligation
Township of Randolph, Morris County, NJ

Township Obligation	643					
	Set-Aside	VL	L	M	Bonus	Total
Inclusionary Projects	63	-	32	31	-	63
Woodmont (Extension of Controls) (Block 119, Lot 109.11)	40 (FS)	-	20	20	-	40
Boulder Ridge (Block 184, Lots 1 and 1.20)	17 (FS)	-	9	8	-	17
Grecco Realty, LLC, 477 Route 10 (Block 111, Lots 10-16)	5 (ARR)		2	3	-	5
Rose of Sharon, 236 Dover-Chester Rd. (Block 21, Lot 29)	1 (FR)	-	1	-		1
100% Affordable Projects	76	-	42	34	32	108
Bennett Avenue Family Housing (Block 191, Lots 7, 8, 11-13 & Block 195, Lots 3-4)	32 (FR)	-	16	16	32	64
Morris County Affordable Housing Corporation (Block 191, Lots 14 & 15)	6 (FS)	-	6	-		
Habitat for Humanity I (Block 59, Lot 15, Block 134, Lot 3.02, Block 134, Lot 9)	1 (FS)	-	3	-		
India Brook Senior Housing – 100% Affordable, Age-Restricted (Block 93, Lot 56.01)	35 (ARR)	-	17	18		
Group Homes / Supportive Needs Housing	26	-	26	-	11	37
High Avenue House (Block 53, Lot 44)	4 (GH)	-	4	-	4	8
Our House (Block 35, Lot 28)	4 (GH)	-	4	-	3	7
Skylands Group Home (Block 50, Lot 6)	4 (GH)	-	4	-	4	8
Sunrise Assisted Living, 648 Route 10 (Block 73, Lot 16)	8 (M)	-	8	-		
Brightview Assisted Living, 175 Quaker Church Rd. (Block 111, Lot 20.01)	6 (M)	-	6	-		
TOTAL EXISTING OR APPROVED CREDITS	165	-	100	65	43	208
(R) = Family Rental (S) = Family For-Sale	(GH) = Group Home (ARR) = Age-Restricted Rental	(BC) = Bonus Credit (M) = Medicaid Certificate				



b. Detailed Summary of Existing Third Round Credits

208 Existing Credits (165 units + 43 Bonus Credits)

(1) **63 units** from the following existing or approved inclusionary affordable housing projects:

a) **40 affordable for-sale units** from the extension of 30 year controls for the existing Woodmont project (Block 119, Lot 109.11). The development includes 20 low-income and 20 moderate income affordable, for-sale family units. The effective date of the controls for the project began July 1, 1994, and were set to expire in 2014, but were extended for Third Round credit through 2044.

Woodmont Affordable Unit Distribution, Family For-Sale			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	10	7	3
Moderate Income	10	7	3

b) **17 affordable for-sale units** from the Boulder Ridge project (Block 184, Lots 1 and 1.20). The development includes 9 low-income and 8 moderate-income affordable family, for-sale units. The effective date of the controls for the project began August 22, 2001, and expire in 2031.

Boulder Ridge Affordable Unit Distribution, Family For-Sale			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	2	4	3
Moderate Income	2	3	3

c) **5 affordable rental units** from the Grecco Realty project (Block 111, Lots 10-16). The development includes 5 affordable, family rental units and was approved by the Board of Adjustment in October 2009, but has not been constructed to date. While not yet existing, the income and bedroom distribution should be provided as follows:

Grecco Realty Affordable Unit Distribution, Family Rentals			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	-	1	1
Moderate Income	1	2	-

d) **1 affordable rental unit** from the Rose of Sharon project (Block 21, Lot 29). The development includes 1 affordable, family rental units and was approved by the Board of Adjustment in October 2009, but has not been constructed to date.

Rose of Sharon Affordable Unit Distribution, Family Rental			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	-	1	-
Moderate Income	-	-	-

(2) **76 units** from the following existing, 100% affordable housing projects:

a) **32 affordable for-sale units** from the Bennett Avenue Family Housing 100% Affordable project (Block 191, Lots 7, 8, 11, 12 & 13 and Block 195, Lots 3 & 4). The development includes 16 low-income and 16 moderate-income affordable family, rental units. The effective date of the controls for the project began in January 1987 and have perpetual controls that do not expire pursuant to the HUD funding agreement set forth in 1991.

Bennett Avenue Family Housing 100% Affordable Affordable Unit Distribution, Family Rentals			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	2	10	4
Moderate Income	2	10	4

b) **6 for-sale affordable units** from the Morris County Affordable Housing Corporation 100% affordable for-sale project (Block 191, Lots 14 & 15). The development includes 6 low-income affordable family, for-sale units. The effective date of the controls for the project began in August 2000, and expire in 2030.

Morris County Affordable Housing Affordable Unit Distribution, Family For-Sale			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	-	-	6
Moderate Income	-	-	-



a) **3 affordable for-sale units** from the Habitat for Humanity I project (Block 59, Lot 15, Block 134, Lot 3.02, and Block 134, Lot 9). The development includes 3 low-income affordable family, for-sale units – including one (1) 2-bedroom unit, and two (2) 3-bedroom units. The effective date of the controls for the project began December 15, 2006, and expire in 2026.

Habitat for Humanity I Affordable Unit Distribution, Family For-Sale			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Low Income	-	1	2
Moderate Income	-	-	-

f) **65 affordable age-restricted rental units** from the India Brook Senior Housing Project Block 93, Lot 56.01). As noted in the previous section, the development is a 100% affordable project with 100 total age-restricted, affordable units. Of the 100 total units, 35 credits are attributed to the Third Round.

India Brook 100% Affordable Affordable Unit Distribution, Age-restricted Rental			
Income Distribution	Bedroom Distribution		
	Efficiency	1 BR	2 BR
Low Income	12	36	3
Moderate Income	13	33	3

(3) **26 units** from the following existing, group home and supportive needs projects:

a) **4 low-income units** from the 4-bedroom High Avenue House group home (Block 53, Lot 44). The initial date of controls began September 16, 1998, and the group home has 40 year controls that expire in 2038.

b) **4 units** from the 4-bedroom Our House (Block 35, Lot 28). 3 of the units are low-income and 1-unit is moderate income. The Deed restriction was recorded in 2013. A survey is being requested to verify the control period.

c) **4 low-income units** from the 4-bedroom Skylands Group Home (Block 50, Lot 6). The initial date of controls began July 17, 1997, and the group home has 30 year controls that expire in 2027.

d) **8 beds** from the assisted living facility at Sunrise (Block 73, Lot 16). The assisted living facility has 100 beds and was built in 2006.

e) **6 beds** from the assisted living facility at Brightview (Block 111, Lot 20.01). The assisted living facility has 75 beds and was built in 2015.

(4) 43 rental bonus credits, from existing units.

- a) 32 rental bonuses from the Bennett Avenue Family Housing project (Block 191, Lots 7, 8, 11, 12 & 13 and Block 195, Lots 3 & 4).
- b) 11 rental bonuses from the following Group Home facilities:
 - i. 4 rental bonuses from the High Avenue House Group Home project (Block 53, Lot 44).
 - ii. 3 rental bonuses from the Our House Group Home project (Block 35, Lot 28).
 - iii. 4 rental bonuses from the Skylands Group Home project (Block 50, Lot 6).

c. *Proposed Mechanisms Addressing the Third Round Obligation*

The following *Table C* outlines the proposed credits for re-zoning or new construction that are being applied to the Township's Third Round obligation. The table accounts for the remaining obligation after existing credits have been applied from *Table B*.



**Table C. Proposed Mechanisms Addressing the Third Round Obligation
Township of Randolph, Morris County, NJ**

Remaining Obligation	643 (Total) – 208 (Existing Credits in Table B) = 435					
	Set-Aside Credits	VL	L	M	Bonus Credits	Total
Inclusionary Projects	181	23	70	88	118	299
Randolph Mountain, Appio Drive (Accounting for Block 199, Lot 9 Only)	7 (FS)	-	4	3	-	7
KAB Mount Freedom Site (Block 224, Lot 5)	15 (FR)	2	6	7	15	30
Canoe Brook Site (Block 44, Lot 25)	40 (FR)	5	15	20	40	80
Elbaum Site (Block 97, Lots 26, 27.01, 27.02)	3 (R)	-	2	1	-	3
LYS/Sporn/Toll Bros. Site (Block 44, Lot 4)	28 (FS)	4	10	14	-	28
Gateway Apartments Block 77, Lots 30 and 31)	15 (FR)	2	6	7	15	30
Avalon Bay – Berger Tract (Block 224, Lots 1-4, 83-86)	30 (FR) 18 (GH)	7	17	24	48	96
Heller Site - Inclusionary (Portion of Block 119, Lot 130)	25 (ARR)	3	10	12	-	25
100% Affordable Projects	27	3	11	13	-	27
E.A. Porter Site - Habitat for Humanity (Block 195, Lot 10)	25 (FS)	3	10	12	-	25
Morris County Housing Authority 172 Franklin Blvd (Block 191, Lot 11)	2 (FS)	-	1	1	-	2
Other Mechanisms	112	15	42	55	-	112
Rezone 160 - 214 Route 10 & 60 Franklin Rd. (Block 196, Lots 2, 3, and 4)	36 (FR)	5	13	18	-	36
Rezoning of Route 10 Sites (Block 42, Lots 8-10, and 13)	62 (FR)	8	23	31	-	62
Rezoning of Mt. Freedom Site (Block 101, Lots 9-11; Block 100, Lots 1, 2, 4; Block 101, Lots 6-7)	13 (FR)	2	5	6	-	13
TOTAL PROPOSED	320	41	123	156	118	437
(FR) = Family Rental	(GH) = Group Home	((ARR) = Age-Restricted				
(FS) = Family For-Sale	(SNR) = Special Needs Rental	Rental				
(M) = Medicaid Certificate		BC) = Bonus Credit				

d. Detailed Summary of Proposed Third Round Credits

438 Proposed Units (320 units + 118 Bonus Credits)

(1) **181 units** from the following new inclusionary projects:

a) **7 affordable for-sale units** from the Randolph Mountain, Appio Drive (Block 199, Lot 9 Only)

The Randolph Mountain Site has been the subject of litigation for many years. Per the Court's decision, the site is required to be included in the Township's Housing Plan. The site is approximately 24.5 acres in area and is to be developed pursuant to the parameters of the R-2 zone with a twenty (20%) percent set-aside for low and moderate income housing. Given these parameters it is estimated that the site can be developed with 34 dwelling units, with a 20% set-aside of 7 affordable for-sale units.

Randolph Mountain Affordable Unit Distribution, Family For-Sale			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Very-Low Income	-	-	-
Low Income	-	2	1
Moderate Income	1	2	1

b) **15 affordable rental units** from the KAB Mount Freedom Site (Block 224, Lot 5)

The site is a single parcel with a total area of 7 acres. The Township will adopt amended zoning to permit a gross density of approximately 11 units per acre for a total of 75 family rental units, with a 20% set-aside of 15 affordable rental units. While not yet constructed, the income and bedroom distribution shall follow UHAC and should be deed restricted as follows:

KAB Mount Freedom Affordable Unit Distribution, Family Rentals			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Very-Low Income	1	-	1
Low Income	1	4	1
Moderate Income	1	5	1

c) **3 affordable for-sale units** from the Elbaum Site (Block 97, Lots 26, 27.01, 27.02)

The site is comprised of three (3) parcels that have a total area of 1.51 acres. The project, known as Elbaum Homes at Pleasant Ridge, includes 16 townhouse units, with a set-aside of 3 affordable rental units. The project was approved



via Resolution dated March 2, 2021. The income and bedroom distribution shall follow UHAC and should be deed restricted as follows:

Elbaum Mt. Freedom Affordable Unit Distribution, Family Rentals			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Very-Low Income	-	-	-
Low Income	-	1	1
Moderate Income	-	1	-

d) **40 affordable rental units** from the Canoe Brook Site (Block 44, Lot 25)

Block 44, Lot 25 is a single parcel with a total area of 12.9 acres. The site was rezoned by Ordinance No. 05-21, adopted on March 4, 2021, creating the R-6 Zone. The Ordinance has been incorporated into the Township Land Development Code under Section 15-20A. The site received preliminary and final site plan approval for 199 units with a 40 unit, family rental affordable set-aside before the Township Planning Board June 20, 2022. While not yet constructed, the income and bedroom distribution shall follow UHAC and should be deed restricted as follows:

Canoe Brook Affordable Unit Distribution, Family Rentals			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Very-Low Income	1	3	1
Low Income	3	9	3
Moderate Income	4	12	4

e) **28 affordable rental units** from the LYS/Sporn/Toll Bros. Site (Block 44, Lot 4)

Block 44, Lot 4 is a single parcel with a total area approximately 44 acres. The site was rezoned by Ordinance No. 04-21, adopted on March 4, 2021, creating the R-7 Zone. The Ordinance has been incorporated into the Township Land Development Code under Section 15-20B. The site received preliminary and final site plan approval for 136 units with a 28 unit, family for-sale affordable set-aside before the Township Planning Board in June 20, 2022. While not yet constructed, the income and bedroom distribution shall follow UHAC and should be deed restricted as follows:

Toll Brothers Affordable Unit Distribution, Family For-Sale			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Very-Low Income	1	2	1
Low Income	2	6	2
Moderate Income	2	9	3

f) **15 affordable rental units** from the Gateway Apartments site (Block 77, Lots 25, 30, and 31)

Gateway Apartments is an existing rental multi-family development located in the R-4 Zone District in which multi-family development is permitted. The property received approvals from the Township Planning Board via Application SP 17-12 and Resolution of approval dated July 2, 2018, which included 88 total units with 15% set-aside of 15 affordable, family rental units. While not yet constructed, the income and bedroom distribution shall follow UHAC and should be deed restricted as follows:

Gateway Affordable Unit Distribution, Family Rentals			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Very-Low Income	-	1	1
Low Income	1	3	1
Moderate Income	2	5	1

g) **48 affordable rental units** from the Avalon Bay – Berger Tract (Block 224, Lots 1-4, and 83-86)

Block 224, Lots 1-4, and 83-86 are contiguous, vacant lots. The site was offered by a developer, and has been mediated to an agreed upon gross density of 240 units, with a 20% set-aside of 48 affordable rental units – which may be satisfied by no fewer than 30 family rental units and up to 18 group home/special needs units. The Township has prepared a zoning ordinance to re-zone the site to this permitted density and use, and will adopt the zoning ordinance. While not yet constructed, the income and bedroom distribution for the family units shall follow UHAC and should be deed restricted as follows:

Avalon Bay - Berger Tract Affordable Unit Distribution, Family Rentals			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Very-Low Income	-	3	1
Low Income	2	6	3
Moderate Income	3	9	3

h) **25 affordable age-restricted units** from the Heller Site (Portion of Block 119, Lot 130)

A portion of Block 119, Lot 130 was offered by a developer at a gross density of 125 units, with a 20% set-aside of 25 affordable age-restricted, rental units. The Township has adopted the Village Center Residential Overlay – 5 to permit the development. While not yet constructed and an age-restricted project that does not need to follow the UHAC bedroom distribution, the income distribution shall follow UHAC and should be deed restricted as follows:



Heller Site Affordable Unit Distribution, Age-Restricted Rentals			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Very-Low Income	3	-	-
Low Income	10	-	-
Moderate Income	12	-	-

(2) 27 units from the following on-going 100% Affordable projects:

a) **25 affordable for-sale units** from the E.A. Porter Site – Habitat for Humanity (Block 195, Lot 10)

This is a 2.5 acre tract that was a former industrial site that was owned by the Township. The Township has entered into an agreement with Habitat for Humanity to donate the property for the construction of twenty-five (25) homes for-sale to low and moderate income families., and as part of the agreement to construct a 100% affordable project, the title was transferred to Habitat for Humanity. Pursuant to the Memorandum of Understanding for this project, the 1 bedroom units are to be marketed to VLI households, but will revert to low if there are no qualified buyers. This will be a one hundred (100%) percent affordable project. The Township is conducting a clean-up of the site funded by the Housing Trust Fund.

E.A. Porter Site Affordable Unit Distribution, Family For-Sale			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Very-Low Income	3	-	-
Low Income	1	6	2
Moderate Income	1	9	3

b) **2 affordable for-sale units** from the Morris County Housing Authority, 172 Franklin Road (Block 191, Lot 11)

The Morris County Housing Authority (MCHA) currently owns the above referenced property and it is located in the Residential – Government Assisted Housing Zone (R-GAH). They are currently seeking a grant to assist in the construction of two (2) affordable units on the property. The parcel is 7,500 square feet in area. It is in proximity to other affordable housing sponsored by MCHA. There is water and sanitary sewer service available for the development proposed.

Morris County Housing Authority Affordable Unit Distribution, Family For-Sale			
Income Distribution	Bedroom Distribution		
	1 BR	2 BR	3 BR
Very-Low Income	-	-	-
Low Income	-	1	-
Moderate Income	-	-	1

(3) Other Mechanisms Contributing towards the Third Round Obligation

a) 36 Units from Proposed Franklin Road Sites Re-Zoning (Block 196, Lots 2, 3, and 4)

The Township has carefully examined vacant sites geographically within the Dover Water Service Area (although not included in the current franchise area agreement with Dover) and proposes the following rezoning of Block 196, Lots 2, 3, and 4. The area includes a total of 16.51 acres, which are proposed to be rezoned to permit inclusionary affordable housing at an average density of 12 units per acre, with a minimum 20 percent affordable set-aside. Therefore, it is anticipated that this re-zoning could produce 180 units total, with a set-aside of 36 affordable units.

The site is located in the Randolph Water Service Area, however, there is an agreement in place that the Township may petition the Dover Water Service Area for future connection at these sites.

b) 13 units from the Rezoning of Mt. Freedom Sites West of Brookside Road

Table D. Rezoning of Mt. Freedom Sites – West of Brookside Road

Block/Lot	Size	Total Units	Affordable Set-Aside
Block 101, Lots 9-11	4.56 acres	28 units	6 units
Block 100, Lots 1, 2, 4	1.07 acres	12 units	2 units
Block 101, Lots 6 and 7	1.56 acres	25 units	5 units
Total Units		65 units	13 units



c) **62 units from the rezoning of Route 10 Sites**

Table E. Rezoning of Route 10 Sites			
Block/Lot	Size	Total Units	Affordable Set-Aside
Block 44, Lots 8 and 9	7.59 acres	91 units	18 units
Block 44, Lot 10	3.94 acres	48 units	10 units
Block 44, Lot 13	11.18 acres	168 units	34 units
	Total Units	307 units	62 units

(4) **118 rental bonus credits**, from proposed units.

- a) 15 rental bonuses from the KAB Mount Freedom Site (Block 224, Lot 5).
- b) 40 rental bonuses from the Canoe Brook project (Block 44, Lot 25).
- c) 48 rental bonuses from the Avalon Bay/Berger Tract (Block 224, Lots 1-4, 83-86).
- d) 15 rental bonuses from the Gateway Apartments project (Block 77, Lots 30-31).

e. **Third Round Family Units Income and Bedroom Distribution**

The following Table F demonstrates Third Round compliance with the required bedroom and income distributions for family units. With a total of 337 family units attributed towards the Third Round (not including extension of controls units) – 99 existing and 238 proposed or units underway, the income distribution of the units is required to be split 50% for low-income – inclusive of 13% very low-income – and 50% moderate-income, and bedroom distribution is required to provide no more than 20% 1-bedroom units, at least 20% 2-bedroom units, and at least 20% 3-bedroom units.

Table F. Third Round Bedroom and Income Distribution for Family Units				
Income Distribution	Bedroom Distribution			Totals
	1 BR	2 BR	3 BR	
Existing (Table B)				
Low Income	14	24	19	57 (54.8 %)
Moderate Income	15	22	10	47 (45.2 %)
Subtotal Existing	29 (27.8%)	46 (44.2%)	29 (27.8%)	104

Proposed (Table C) *				
Income Distribution	Bedroom Distribution			Totals
	1 BR	2 BR	3 BR	
Very Low Income **	6	9	5	20 (12.1%)
Low Income	10	38	14	62 (37.6%)
Moderate Income	14	52	17	83 (50.3%)
Subtotal Existing	30 (18.2%)	99 (60%)	36 (21.8%)	165 *

Overall Third Round Existing and Proposed				
Income Distribution	1 BR	2 BR	3 BR	Totals
Very Low Income **	6	9	5	20 (7.4%)
Low Income	24	62	33	119 (44.2%)
Moderate Income	29	74	27	130 (48.3%)
Subtotal Existing	59 (21.9%)	145 (53.9%)	65 (24.2%)	269 *

G. CONSIDERATION AND SUMMARY OF SITES FOR INCLUSIONARY DEVELOPMENT

During the preparation of this Housing Element and Fair Share Plan, there have been a number of proposals for inclusionary residential development which have been considered as per the requirement in the FHA, of which the following were ultimately included in this Plan based largely upon site suitability. Overall, this Plan includes one-hundred and ninety-five (195) units of affordable housing within proposed inclusionary developments, as well as an additional twenty-seven (27) new construction units in 100% affordable sites, and thirty-six (36) units accomplished from re-zoned sites, for a total of two-hundred and fifty-eight (258) new units.

The following projects are all being considered as part of the one-hundred and ninety-five (195) units of Inclusionary Development to fulfill the Township's obligation:

- 40 affordable rental units from the Canoe Brook Site (Block 44, Lot 25), based upon a 20% set-aside.
- 15 affordable rental units from the KAB Mount Freedom Site (Block 224, Lot 5), based upon a 20% set-aside.
- 7 affordable for-sale units from the Randolph Mountain, Appio Drive (Block 199, Lots 6 & 9), based upon a 20% set-aside.



- 3 affordable for-sale units from the Elbaum Site (Block 97, Lots 26, 27.01, 27.02), based upon a 20% set-aside.
- 48 affordable rental units from the Avalon Bay – Berger Tract (Block 224, Lots 1-4 and 83-86), based upon a 20% set-aside.
- 15 affordable rental units from the Gateway Apartments site (Block 77, Lots 30 and 31), based upon a 15% set-aside.
- 27 affordable for-sale units from the LYS/Sporn Site (Block 44, Lot 4), based upon a 20% set-aside.
- 25 affordable units from the Heller Site (Portion of Block 119, Lot 130), based upon a 20% set-aside.

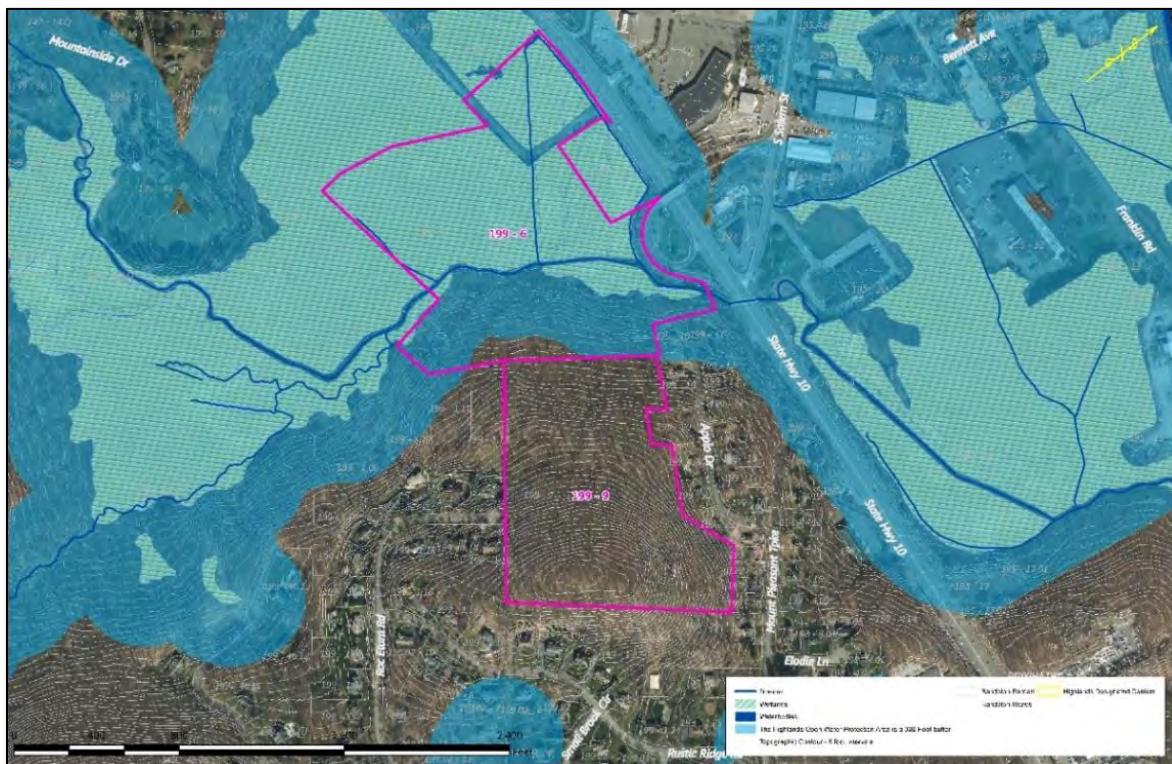
H. AVAILABILITY OF INFRASTRUCTURE

The Township of Randolph is largely served by two public community water purveyor service areas, which include the Dover Water Commission and the Randolph Township Public Works Department. As depicted in the map below, an obvious majority of the Township's properties are serviced by Randolph Water. Water provided by the Township in the Randolph service area is purchased exclusively from the Morris County Municipal Utilities Authority (MCMUA), whose source is ground water, known as the Almatong well fields. There are six MCMUA wells located in Randolph and Chester Townships and two wells in Flanders Valley located in Mount Olive and Roxbury Townships. These wells draw from the Upper and Lower Stratified Glacier Drift and the Lower Liethsville Limestone Formations.

I. SITE SUITABILITY

Pursuant to N.J.A.C. 5:93-1.1, 5.3 and 5.6, all sites included in this plan are required to be available, approvable, developable, and suitable. The following analyses provide a site-by-site suitability test.

a. RANDOLPH MOUNTAIN (BLOCK 199, LOTS 6 & 9)

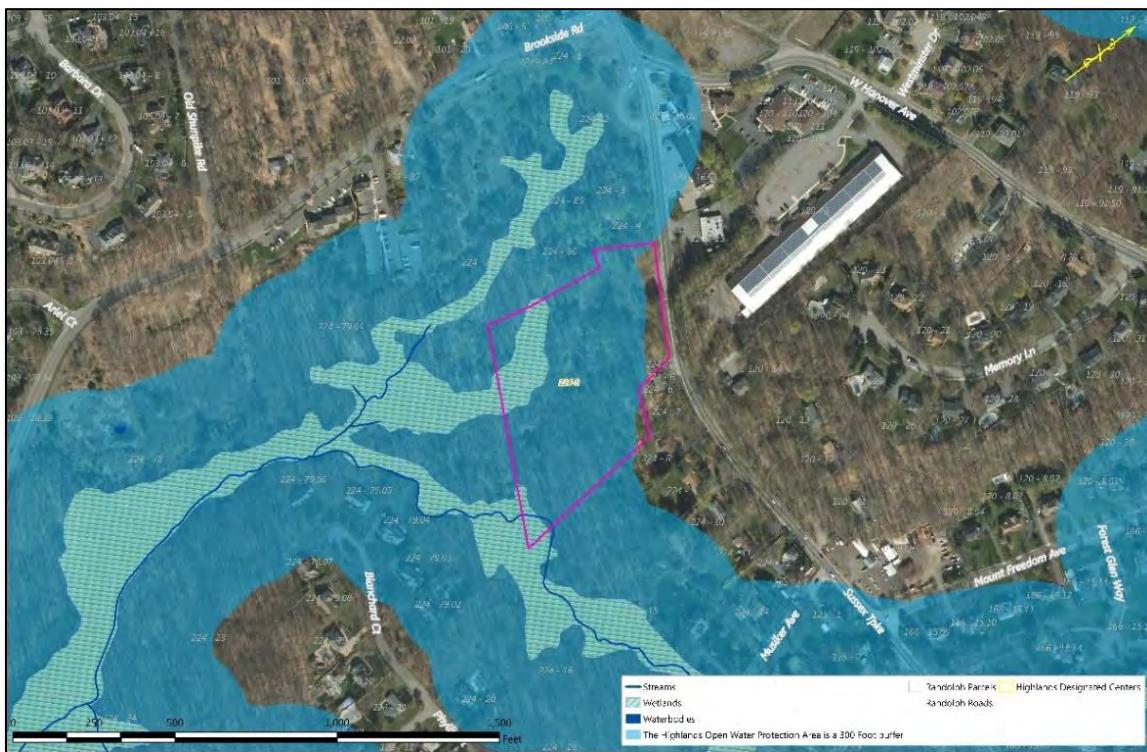


- 1) There are no known title encumbrances that would prohibit or otherwise impact the development of the property in general. The Randolph Mountain Site has been the subject of litigation for many years. Per the Court's decision, the site is required to be included in the Township's Housing Plan and was rezoned based upon the Court Orders in the litigation.
- 2) The site has access to appropriate streets. Block 6 largely has frontage along Route 10, but does not have access, while contiguous Lot 9 provides access from Appio Drive and Roc Etam Road.
- 3) The site is located in the Randolph Water Service Area, and there is adequate water capacity based upon an analysis of the firm capacity, attached as Appendix C.
- 4) The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.



- 5) Per NJDEP mapping, the Mill Brook is designated as a C-1 stream on-site that largely encumbers Lot 6. Lot 9 does not appear to be encumbered by any portion of the stream, and is therefore the preferable site for development.
- 6) According to topographic mapping of 5-foot contour intervals, there appear to be steep slopes throughout the site, with some portions in excess of 15% slope. It is anticipated that areas with significant steep slopes will not be developable, but that development can be clustered in the portions of the site not encumbered by steep slopes.
- 7) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 3, known as the Fringe Planning Area, in which limited growth is encouraged. The SDRP notes that "development within the Fringe Planning Area should be concentrated in or adjacent to existing Centers or in planned new Centers. The character, location and magnitude of new development should be based on the capacities of the natural and built systems within the Center and its Environs". The site lies within the Highlands Planning Area of Randolph Township and as such is exempt from the regulations promulgated by the New Jersey Department of Environmental Protection (NJDEP) set forth in N.J.A.C. 7:38.
- 8) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 9) The entirety of Lot 6 and the western portion of Lot 9 are listed as a Critical Environmental Sites ("CES") of the NJ State Development and Redevelopment Plan. The goal of the Critical Environmental and Historic sites designation is to protect the features and landscapes of historic or aesthetic significance that are less than one square mile in extent, and to help organize planning for new development or redevelopment by singling out the elements of natural systems, small areas of habitat, historic sites, and other features that should continue to be expressed in the future landscape through protection and restoration. The presence of CES gives land owners and developers important advance information on how to shape their proposals for development of the land around them, focusing on including them within the design and function of the development whenever possible, while protecting them from adverse impacts. Designating a site as a CES means that the site is of local, regional or statewide significance and that its protection and enhancement is of primary importance.
- 10) There are wetlands on the site that were mapped by publicly available GIS data, which show that Lot 6 is mostly encumbered by wetlands in relation to the Mill Brook and associated tributaries. Lot 9 does not appear to be encumbered by wetlands, and is therefore the preferable portion of the site for development.

b. **KAB MOUNT FREEDOM SITE (BLOCK 224, LOT 5)**



- 1) There are no known title encumbrances that would prohibit or otherwise impact the development of the property in general. The owner of the site approached the Township with a developer, expressing interest in being a part of the Township's Affordable Housing Plan.
- 2) The site has access to appropriate streets. The site has frontage on and access from Sussex Turnpike.
- 3) The site is located in the Randolph Water Service Area, and there is adequate water capacity based upon an analysis of the firm capacity, attached as Appendix C.
- 4) The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- 5) Per NJDEP mapping, there are no C-1 streams on-site.
- 6) There are no slopes greater than 15 percent on the site.
- 7) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 2, in which development is encouraged. The SDRP notes that "the Suburban Planning Area is a key area for accommodating market forces and demand for development". The site lies within the Highlands Planning Area of Randolph Township and as such is exempt from the regulations promulgated by the New Jersey Department of Environmental Protection



(NJDEP) set forth in N.J.A.C. 7:38. Additionally, the map above which depicts publicly available Highlands Area GIS data, shows the site within the 300-foot Highlands Open Water, as recommended by the Highlands Regional Master Plan ("RMP"). However, as this site is located in the Highlands Planning Area, and the Township has not yet adopted a Highlands Area Land Use Ordinance, it is not subject the buffer requirements.

- 8) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 9) The site does not appear to be of exceptional cultural or historic value.
- 10) There are wetlands in the southern and southwestern portion of the site that were mapped by publicly available GIS data. These wetlands appear to encumber less than 10% of the site; however, their resource value has not been determined. The site is subject to further wetland delineation by the NJDEP to determine the developable acreage of the property.

c. ELBAUM SITE (BLOCK 97, LOTS 26, 27.01, 27.02)



- 1) There are no known title encumbrances that would prohibit or otherwise impact the development of the property in general. The site received approval from the Township Board of Adjustment in March 2021.
- 2) The site has access to appropriate streets. The site has frontage on and access from Sussex Turnpike.
- 3) The site is located in the Randolph Water Service Area, and there is adequate water capacity based upon an analysis of the firm capacity, attached as Appendix C.

- 4) The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- 5) Per NJDEP mapping, there are no C-1 streams on-site.
- 6) There are no slopes greater than 15 percent on the site.
- 7) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 2, in which development is encouraged. The SDRP notes that “the Suburban Planning Area is a key area for accommodating market forces and demand for development”. While the site is currently developed, Ordinance No. 04-19 was passed March 21, 2019, which created the Village Mixed Use (VMU) Zone district that permits multifamily housing uses at a density of 10 units per acre. This site and the surrounding area were part of the Mount Freedom Village Center Planning Study, which provided that “some of the structures in Mount Freedom are remnants of the resort and bungalow days of the community. There are some bungalows that remain, that have been converted to year-round occupancy and in some instances expanded”. Therefore, the site is part of a larger, long-standing planning efforts to revitalize and redevelop this area of Randolph.
- 8) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 9) The site does not appear to be of exceptional cultural or historic value.
- 10) There are no wetlands or flood plains on the site that were mapped by publicly available GIS data.

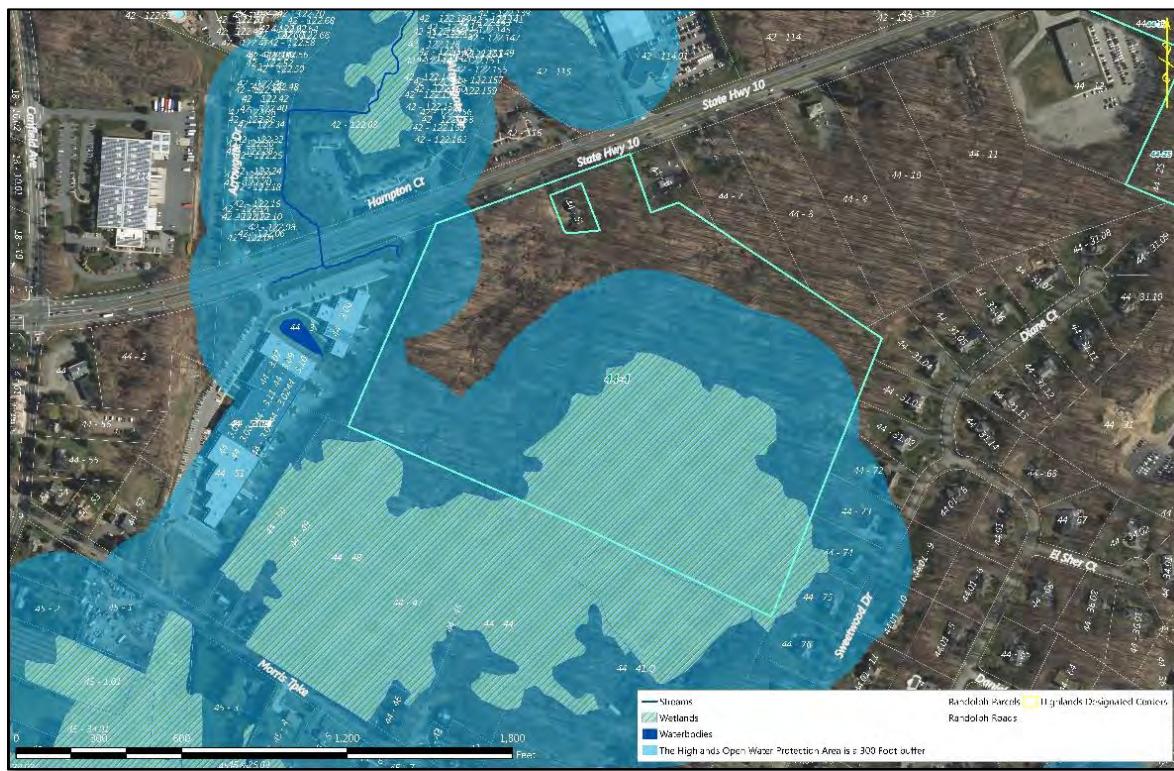
d. **CANOE BROOK SITE (BLOCK 44, LOT 25)**





- 1) There are no known title encumbrances that would prohibit or otherwise impact the development of the property in general. The site received Preliminary and Final Site Plan from the Township Planning Board in June 2022.
- 1) The site has access to appropriate streets. The site has frontage on and access from Dover-Chester Road, but access is restricted to emergency only in an existing conservation easement. However, this Lot is in related ownership with adjacent Lot 12, and an access easement is proposed through that property to Route 10.
- 2) The site is located in the Randolph Water Service Area, and there is adequate water capacity based upon an analysis of the firm capacity, attached as Appendix C.
- 3) The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- 4) Per NJDEP mapping, there are no C-1 streams on-site.
- 5) There are slopes that have been identified that are greater than 15 percent on the site.
- 6) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 3, known as the Fringe Planning Area, in which limited growth is encouraged. The SDRP notes that "development within the Fringe Planning Area should be concentrated in or adjacent to existing Centers or in planned new Centers. The character, location and magnitude of new development should be based on the capacities of the natural and built systems within the Center and its Environs".
- 7) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 8) The site does not appear to be of exceptional cultural or historic value.
- 9) There are no wetlands or flood plains on the site that were mapped by publicly available GIS data.

f. LYS/SPORN/TOLL BROS. (BLOCK 44, LOT 4)

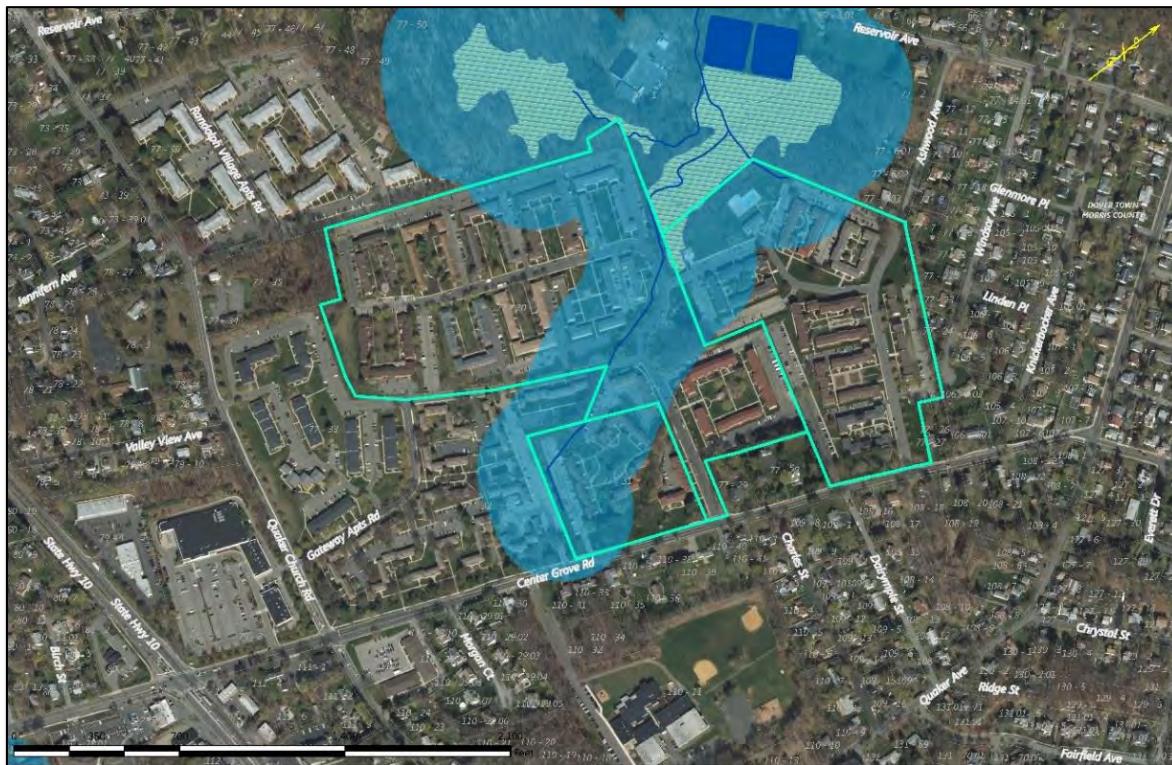


- 2) There are no known title encumbrances and the site received Preliminary and Final Site Plan from the Township Planning Board in June 2022.
- 3) The site has access to appropriate streets. The site has frontage on and access from Route 10.
- 4) The site is located in the Randolph Water Service Area, and there is adequate water capacity based upon an analysis of the firm capacity, attached as Appendix C.
- 5) The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- 6) A previous Letter of Interpretation (“LOI”) issued by NJDEP for this property notes that a 300-foot special water resources protection area may be required to be established along all waters designated Category One and perennial or intermittent streams that drain into or are upstream of Category One waters. The LOI also states that depending upon the extent of any proposed development or disturbances of the property, this 300-foot buffer may apply to the watercourses located on and adjacent to the property. Should a 300-foot transition area be required, the developability of the property would be impacted.
- 7) There are slopes that have been identified that are greater than 15 percent on the site.
- 8) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 2, in

which development is encouraged. The SDRP notes that “the Suburban Planning Area is a key area for accommodating market forces and demand for development”.

- 9) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 10) The site does not appear to be of exceptional cultural or historic value.
- 11) There are wetlands located at the southern portion of the site that were mapped by publicly available GIS data. The location of wetlands will impact the amount of net developable area.

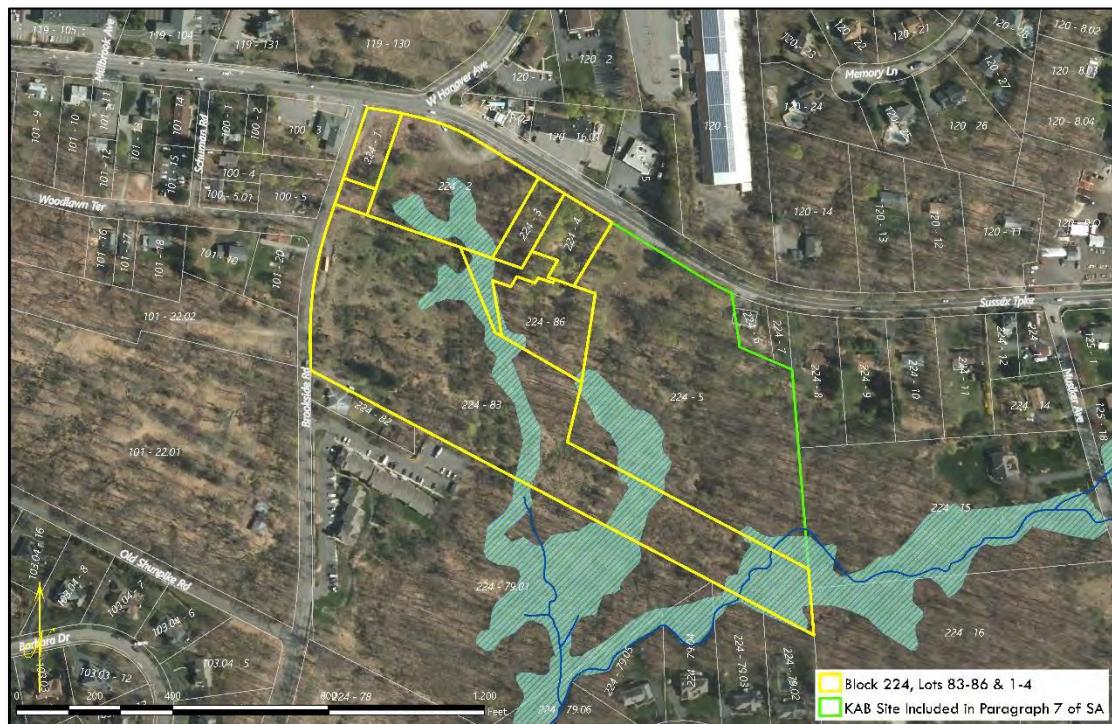
f. GATEWAY APARTMENTS (BLOCK 77, LOTS 25, 30, AND 31)



- 1) There are no known title encumbrances that would prohibit or otherwise impact the development of the property in general. The property received approvals from the Township Planning Board via Application SP 17-12 and Resolution of approval dated July 2, 2018.
- 2) The site has access to appropriate streets. The site has frontage on and access from Center Grove Road.
- 3) The site is located in the Dover Water Service Area and there is adequate water capacity for the development.
- 4) The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.

- 5) Per NJDEP mapping, there are no C-1 streams on-site.
- 6) There are no slopes greater than 15 percent on the site.
- 7) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 2, in which development is encouraged. The SDRP notes that “the Suburban Planning Area is a key area for accommodating market forces and demand for development”.
- 8) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 9) The site does not appear to be of exceptional cultural or historic value.
- 10) There are wetlands located at the northern portion of the site on Lot 25 that were mapped by publicly available GIS data. These appear to be associated with the Wallace Brook Tributary. It is unclear where additional development will occur on the site and if the wetlands will impact the amount of net developable area.

g. **AVALON BAY – “BERGER TRACT” (BLOCK 224, LOTS 1-4 and 83-86)**



- 1) There are title encumbrances that could prohibit or otherwise impact the development of the property in general. A full Title search should be conducted to determine the status of title for the property, and the full title package should be submitted for review.



- 2) The site has access to appropriate streets. The site has frontage on and access from Sussex Turnpike to the north and Brookside Avenue to the west.
- 3) The site is located in the Randolph Water Service Area, and there is adequate water capacity based upon an analysis of the firm capacity, attached as Appendix C.
- 4) The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- 5) Per NJDEP mapping, there are no C-1 streams on-site. However, there is a spring that bubbles up on Lot 2, which then creates a stream that flows southeasterly into the wetlands on lot 83. This stream has a tributary which forms at the County drainage pipe from Sussex Turnpike on the northeast corner of Lot 2.
- 6) There are slopes greater than 15 percent on the site that may impact portions of the site outside of the area proposed for development.
- 7) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 2, in which development is encouraged. The SDRP notes that "the Suburban Planning Area is a key area for accommodating market forces and demand for development".
- 8) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 9) The site does not appear to be of exceptional cultural or historic value.
- 10) There are wetlands that generally encumber portions of the site. While the specific location of wetlands has not been provided by an LOI and their resource value has not yet been determined, it is anticipated that these identified encumbrances will be excluded from the disturbed area of the site proposed for development.

h. RE-ZONING OF FRANKLIN ROAD SITES (BLOCK 196, LOTS 2, 3, AND 4)



- 1) There are no known title encumbrances that would prohibit or otherwise impact the development of the property in general.
- 2) The site has access to appropriate streets. The site has frontage on, but currently no access from Route 10. The site has frontage and access from Franklin Road.
- 3) The site is located in the Dover Water Service Area and there is adequate water capacity for the development.
- 4) The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- 5) Per NJDEP mapping, there are no C-1 streams on-site.
- 6) There are no slopes greater than 15 percent on the site.
- 7) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 2, in which development is encouraged. The SDRP notes that “the Suburban Planning Area is a key area for accommodating market forces and demand for development”.
- 8) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 9) The site does not appear to be of exceptional cultural or historic value.

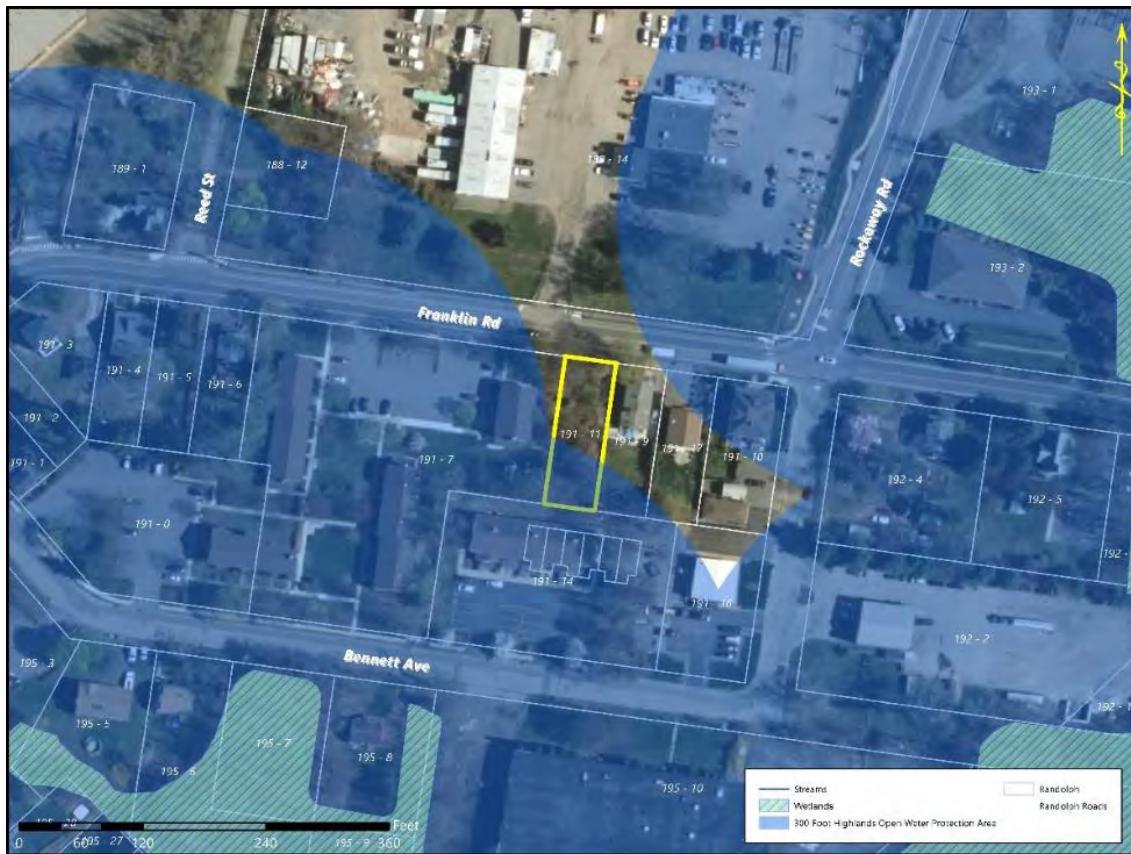
10) There are no wetlands or flood plains on the site that were mapped by publicly available GIS data.

i. **E.A. PORTER SITE - HABITAT FOR HUMANITY (BLOCK 195, LOT 10)**



- 8) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 9) The site does not appear to be of exceptional cultural or historic value.
- 10) There are wetlands on the far eastern portion of the site that were mapped by publicly available GIS data, and appear to be associated with the Rockaway River Tributary. These wetlands appear to encumber a very small portion of the site; however, their resource value has not yet been determined.

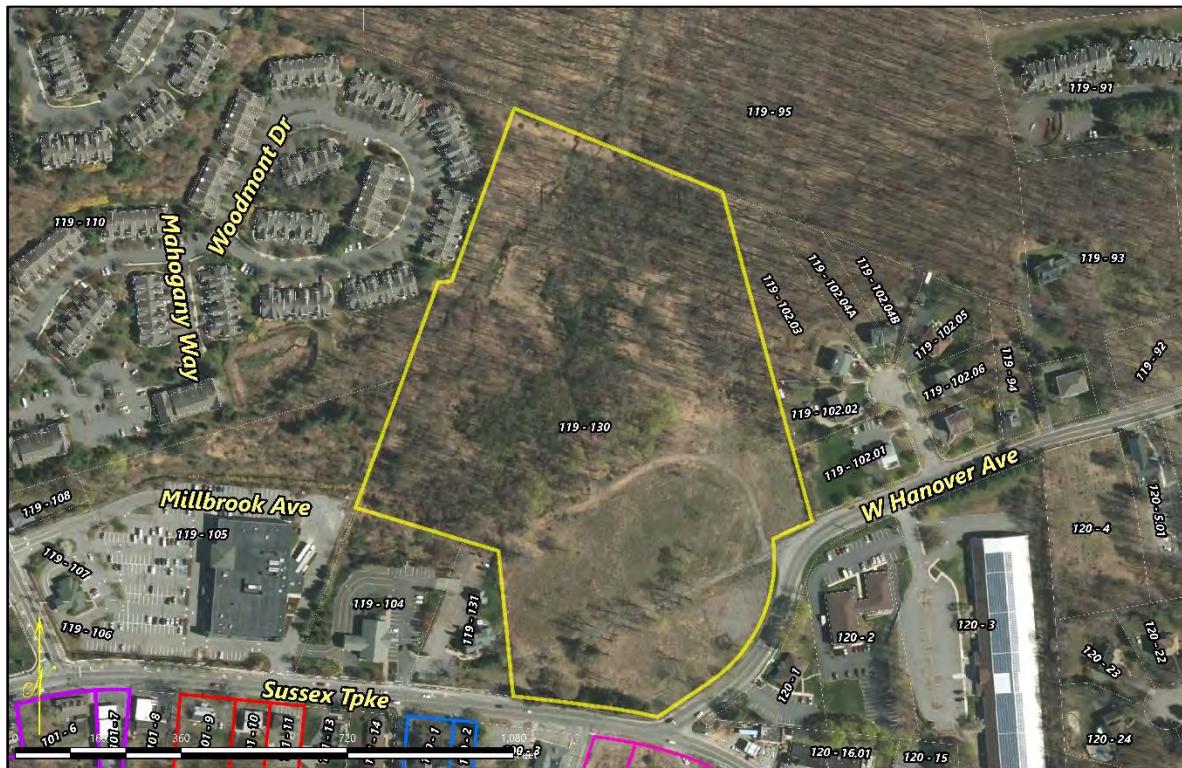
i. **MORRIS COUNTY HOUSING AUTHORITY (BLOCK 191, LOT 11)**



- 1) There are no known title encumbrances that would prohibit or otherwise impact the development of the property in general. The site is owned by Morris County Affordable Housing Corporation.
- 2) The site has access to appropriate streets. The site has frontage on and access from Franklin Road.
- 3) The site is located in the Dover Water Service Area and there is adequate water capacity for the development.

- 4) The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- 5) Per NJDEP mapping, there are no C-1 streams on-site.
- 6) There are no slopes greater than 15 percent on the site.
- 7) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 2, in which development is encouraged. The SDRP notes that “the Suburban Planning Area is a key area for accommodating market forces and demand for development”.
- 8) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 9) The site does not appear to be of exceptional cultural or historic value.
- 10) There are no wetlands or flood plains on the site that were mapped by publicly available GIS data.

k. HELLER SITE (PORTION OF BLOCK 119, LOT 130)



- 2) The site has access to appropriate streets. The site has frontage on and access from West Hanover Road and Sussex Turnpike.
- 3) The site is located in the Randolph Water Service Area, and there is adequate water capacity based upon an analysis of the firm capacity, attached as Appendix C.
- 4) The site is located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- 5) Per NJDEP mapping, there are no C-1 streams on-site.
- 6) There are no slopes greater than 15 percent on the site.
- 7) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 2, in which development is encouraged. The SDRP notes that “the Suburban Planning Area is a key area for accommodating market forces and demand for development”.
- 8) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 9) The site does not appear to be of exceptional cultural or historic value.
- 1) There are wetlands that were mapped by publicly available GIS data and that generally encumber portions of the site, and should be confirmed by an LOI.

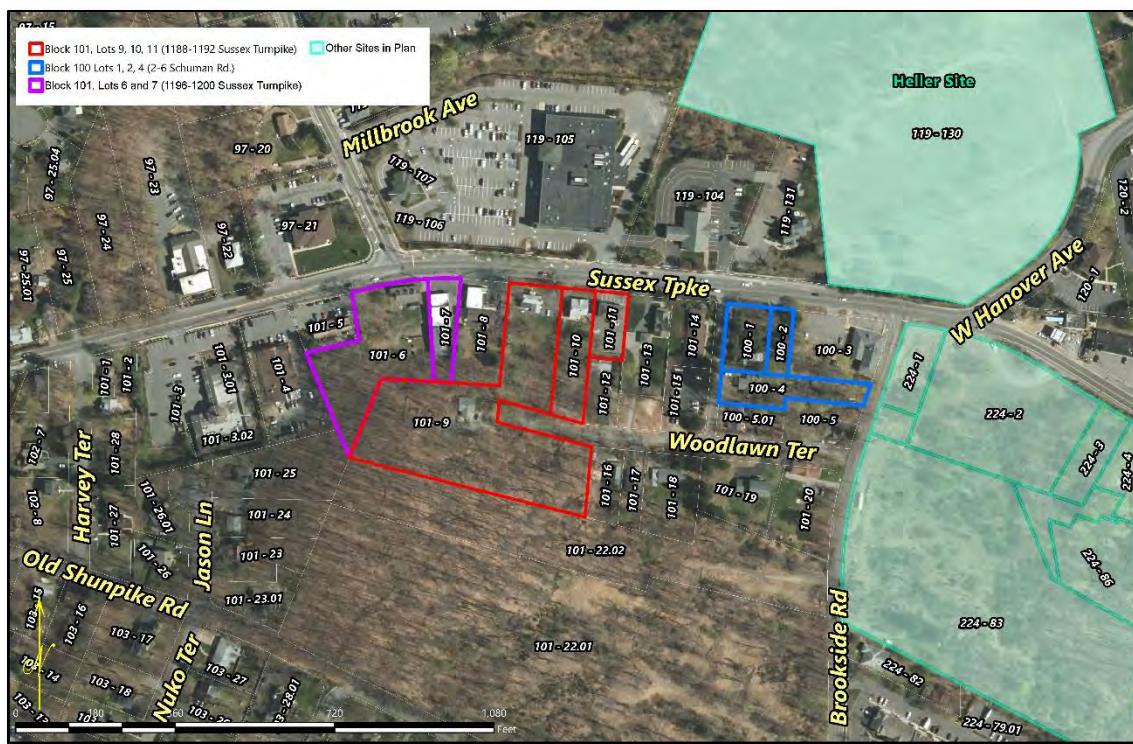
I. ROUTE 10 REZONING (BLOCK 42, LOTS 8-10, & 13)





- 2) There are no known title encumbrances that would prohibit or otherwise impact the development of the property in general. The respective properties are each under individual ownership and are envisioned to be developed independently.
- 3) The sites have access to appropriate streets. The sites have frontage on and access from Route 10.
- 4) The sites are located in the Randolph Water Service Area, and there is adequate water capacity based upon an analysis of the firm capacity, attached as Appendix C.
- 5) The sites are located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- 6) Per NJDEP mapping, there are no C-1 streams on-site.
- 7) There are no slopes greater than 15 percent on the site.
- 8) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 2, in which development is encouraged. The SDRP notes that "the Suburban Planning Area is a key area for accommodating market forces and demand for development".
- 9) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 10) The site does not appear to be of exceptional cultural or historic value.
- 11) There are no wetlands or flood plains on the site that were mapped by publicly available GIS data.

m. REZONING OF THE MT. FREEDOM SITES WEST OF BROOKSIDE ROAD (BLOCK 101, LOTS 9-11; BLOCK 100, LOTS 1, 2, AND 4; BLOCK 101, LOTS 6 AND 7)



- 1) There are no known title encumbrances that would prohibit or otherwise impact the development of the property in general.
- 2) The sites have access to appropriate streets. The sites have frontage on and access from Sussex Turnpike, and Block 101 properties have additional frontage on and access from Brookside Road.
- 3) The sites are located in the Randolph Water Service Area, and there is adequate water capacity based upon an analysis of the firm capacity, attached as Appendix C.
- 4) The sites are located in a sewer service area, and there is adequate sewer infrastructure and sewer capacity to serve the site.
- 5) Per NJDEP mapping, there are no C-1 streams on-site.
- 6) There are no slopes greater than 15 percent on the site.
- 7) The site location is consistent with the adopted State Development and Redevelopment Plan. The site is located in the Highlands Planning Area, and is located in Planning Area 2, in which development is encouraged. The SDRP notes that “the Suburban Planning Area is a key area for accommodating market forces and demand for development”.



- 8) Per NJDEP, the site is not on the Known Contaminated Sites List.
- 9) The site does not appear to be of exceptional cultural or historic value.
- 10) There are no wetlands or flood plains on the site that were mapped by publicly available GIS data.

J. MANDATORY SET-ASIDE ORDINANCE TO CAPTURE OTHER UNITS

The Township has prepared and will adopt a Mandatory Set-Aside Ordinance ("MSO") as a section of the Affordable Housing Ordinance to capture additional units. The adoption of the MSO requires that any site that benefits from a rezoning, variance or redevelopment plan approved by the Township, which results in multi-family residential development of five (5) dwelling units or more, will produce affordable housing at a set-aside rate of 20%. The adoption of the MSO does not give any developer the right to any such rezoning, variance, redevelopment designation or other relief, or establish any obligation on the part of Township or its boards to grant such rezoning, variance, redevelopment designation or other relief (See Appendix D). This was not a requirement of the Settlement Agreement; however, the Township has opted to include the provision in its Affordable Housing Ordinance.

K. AFFORDABLE HOUSING ORDINANCE AND AFFIRMATIVE MARKETING PLAN

The Township has prepared and will adopt a new Affordable Housing Ordinance and Affirmative Marketing Plan that is applicable to all new and existing affordable housing units created within Randolph (See Appendices D and E). The Township has contracted with the Housing Partnership for Morris County as their Administrative Agent to manage the affordability controls and the affirmative marketing plan for existing affordable housing units in the Township that do not have and/or are not obligated to provide their own administrative agent. The Township will continue to partner with the Housing Partnership for additional units as they are constructed.

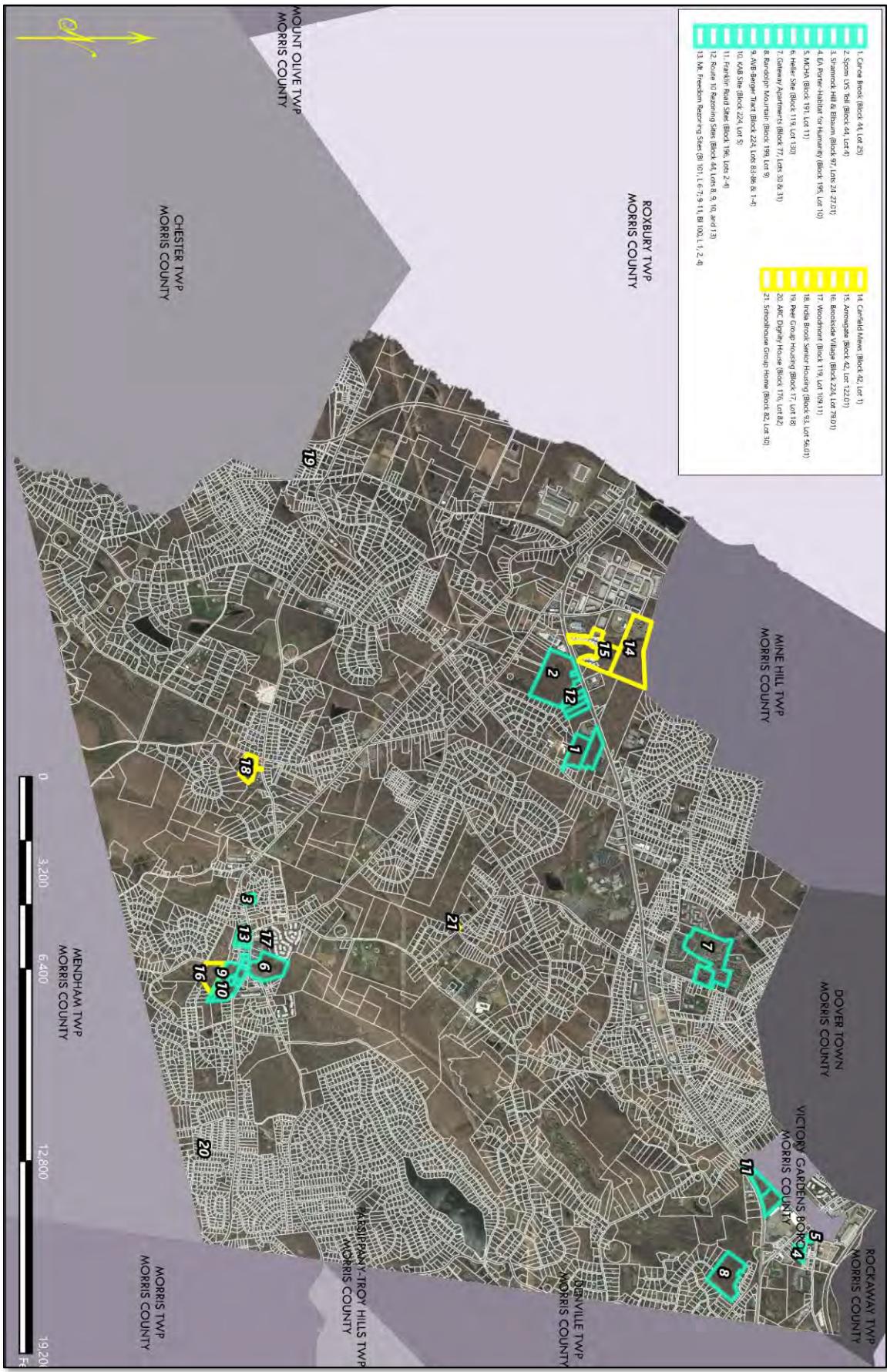
L. DEVELOPMENT FEE ORDINANCE AND SPENDING PLAN

The Township has prepared and will adopt an amended Development Fee Ordinance (See Appendix F). Until the amended Development Fee Ordinance is adopted, the Township will continue to rely on the existing Development Fee Ordinance.

The Township has prepared an Amended Spending Plan. (See Appendix G.2). The Spending Plan outlines the anticipated collection and distribution of mandatory development fees and in lieu contributions, and the Township's proposals for spending the money that comes into the Affordable Housing Trust Fund. A Consent Order was approved by the Court to approve the Amended Spending Plan dated January 15, 2020 (See Appendix G.1).

M. MAP OF AFFORDABLE HOUSING SITES

The following map provides an overview of the housing sites included within this plan. Symbols utilized in the map delineate the round the sites contribute to and are numbered with a corresponding legend, and give a visual overview of the Township's Fair Share Plan (See Appendix I).



IV. APPENDICES

APPENDIX A:

COURT ORDER APPROVING THE SETTLEMENT AGREEMENT BY AND BETWEEN THE TOWNSHIP
OF RANDOLPH AND FAIR SHARE HOUSING CENTER, DATED JUNE 3, 2022

FILED

JUN 03 2022

Keli (Rand-2004A)
Preliminary Judgment Order
052022

Edward J. Buzak, Esq. - ID No. 002131973
THE BUZAK LAW GROUP, LLC
Montville Office Park
150 River Road, Suite N-4
Montville, New Jersey 07045
(973) 335-0600
Attorney for Plaintiff/Petitioner, Township of Randolph

Hon. Stephan C. Hansbury
J.S.C. ret., t/a on recall
Morris County

IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP
OF RANDOLPH, a municipal
corporation of the State of New Jersey,

Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MORRIS COUNTY

DOCKET NO.: MRS-L-1640-15

CIVIL ACTION
(Mount Laurel)

ORDER APPROVING SETTLEMENT
AGREEMENT AND GRANTING A
PRELIMINARY JUDGMENT OF
COMPLIANCE AND REPOSE AND
SETTING A FINAL COMPLIANCE
HEARING

THIS MATTER having come before this Court for a remote and virtual hearing on May 10, 2022 to determine whether the Settlement Agreement (Exhibit P-5 in evidence), entered into between the Township of Randolph ("Township") and Fair Share Housing Center ("FSHC") is fair and reasonable to the region's low- and moderate-income households according to the principles set forth in Morris County Fair Housing Council v. Boonton Tp., 197 N.J. Super. 359 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996); and in accordance with an Order dated February 24, 2022 (P-1 in evidence) entered by this Court; and in the presence of The Buzak Law Group, LLC, Edward J. Buzak, Esq. and Keli L. Gallo, Esq. appearing, as Counsel for the

Township; Joshua Bauers, Esq. appearing as Counsel for FSHC; Bruce H. Snyder, Esq., appearing as Counsel for Intervener KAB Mt Freedom LLC; Richard R. Hoff, Jr., Esq. appearing as Counsel for Intervener Canoe Brook Development, LLC; Derek Orth, Esq., appearing as Counsel for AvalonBay Communities, Inc. ("Avalon"); Jeffrey Kantowitz, Esq., appearing as Counsel for Ten Development Partners LLC ("TDP"); Steven C. Schepis, Esq, appearing as Counsel for Ten East Realty LLC ("Ten East"); and Daniel E. Horgan, Esq. and Eric D. McCullough, Esq., appearing as Counsel for Randolph Mountain Partnership ("RMP"); and the February 24, 2022 Order entered by this Court (Exhibit P-1), having required specific notice to be given to various entities and persons prior to the hearing; and the Court having entered an Order dated April 11, 2022 that adjourned and rescheduled the Fairness and Preliminary Compliance Hearing from March 31, 2022 to May 10, 2022; and the Court being satisfied through the contents of Exhibits P-2 and P-3 in evidence and as more specifically set forth in this Judgment that adequate and appropriate notice was provided; and the Court having heard the testimony of Katherine Sarmad, PP, AICP, the Township's professional planning expert, the testimony of Elizabeth McManus, PP, AICP, the Special Master appointed to assist the Court in resolving the multiple issues in this litigation, as well as the argument and position of counsel; and written objections having been submitted by Avalon, TDP, Ten East and RMP; and Avalon, TDP and Ten East having withdrawn their objections; and the Court having reviewed all seven (7) Exhibits (P-1 through P-7) from the Township placed into evidence; and the Court being of the view that an Order approving the Settlement Agreement should be entered as set forth hereinafter, and for good cause shown

It is on this 3rd day of June, 2022

ORDERED AND ADJUDGED as follows:

1. The Court finds that the notice provided by the Township as set forth in the Certification of Donna Luciani (P-2 in evidence) and in the Certification of Justine Visconti (P-3 in evidence) was consistent with the notice requirements set forth by this Court in its Order of February 24, 2022 (P-1 in evidence) and was adequate and appropriate for the remote and virtual hearing to take place.

2. The Settlement Agreement entered into between the Township and Fair Share Housing Center ("FSHC") dated August 19, 2021(P-5 in evidence) is hereby determined to be fair and reasonable; to be in the range of possible outcomes were this case fully litigated; to represent a realistic opportunity for the provision of affordable housing to the protected class of low and moderate income families; to represent a practical solution for the construction of affordable housing units; and to achieve the goals of the Fair Housing Act (N.J.S.A. 52:27D-301, *et seq.*) by helping the Township satisfy its affordable housing obligations.

3. The parties in this litigation are directed and ordered to implement the Settlement Agreement in accordance with its terms not later than September 29, 2022, including, without limitation, the terms and conditions set forth in the Special Master's Report dated May 6, 2022 as explained and clarified in direct testimony and cross-examination as set forth on the record at the Hearing including the following conditions: (1) the Township must submit additional documentation confirming that a realistic opportunity is created for inclusionary development at 1196-1200 Sussex Turnpike (Block 101, Lots 6 and 7); and (2) the Township must submit a Housing Element and Fair Share Plan that demonstrates site suitability for its unbuilt and unapproved affordable housing mechanisms including the confirmation of adequate water supply for those mechanisms.

4. The temporary immunity previously granted to the Township is extended until further order of the Court.

5. This Court retains jurisdiction for the limited purpose of enforcing this Judgment including the enforcement of the terms and conditions of the Settlement Agreement (Exhibit P-5).

6. As set forth by the Court on the record during the May 10, 2022 Fairness and Preliminary Compliance Hearing, a Final Compliance Hearing in this matter shall be held on September 29, 2022 at 10:00 a.m. The Final Compliance Hearing may take place in person or, due to the Public Health Emergency and State of Emergency declared by Governor Philip D. Murphy, Governor of the State of New Jersey on March 9, 2020 under Executive Order No. 103 (2020), through virtual technology adopted for use by the Court. The Township will provide additional notice regarding the manner in which the Hearing will proceed on its website (www.randolphnj.org) on or before September 22, 2022. No further notice regarding the Final Compliance Hearing is required.

8. The objections of RMP, as expressed, without limitation, in their letters, including, the letters dated March 17, 2022 and May 9, 2022 from their counsel and as expressed in the oral argument of counsel for RMP at the Hearing, be and are hereby over-ruled and rejected.

9. The oral opinion of this Court, issued on May 10, 2022, be and the same is hereby incorporated herein as if set forth at length.

10. A copy of the within Order shall be served on all parties via eCourts or as otherwise directed by the Court.

The court has considered the objections of RMP to paragraph 8 and has rejected it. It is noted that neither the Special Master or FSHC has objected. Honorable Stephan C. Hansbury, J.S.C.



Peter J. O'Connor, Esq.
Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
David T. Rammier, Esq.
Joshua D. Bauers, Esq.
Bassam F. Gergi, Esq.

August 19, 2021

Edward J. Buzak, Esq.
Buzak Law Group
150 River Road
Montville, NJ 07045

Re: In the Matter of the Township of Randolph, County of Morris, Docket No. MRS-L-1640-15

Dear Mr. Buzak:

This letter memorializes the terms of an agreement reached between the Township of Randolph (the "Township" or "Randolph"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

Randolph filed the above-captioned matter on July 1, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Township and FSHC have agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, 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.

Settlement terms

The Township and FSHC hereby agree to the following terms:

1. FSHC agrees that the Township, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, 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 Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round Obligation instead of doing so through plenary adjudication of the Third Round Obligation.

3. FSHC and Randolph hereby agree that Randolph's affordable housing obligations are as follows:

Rehabilitation Share (per Reading Report for Morris County and as established in this Agreement)	33
Prior Round Obligation (pursuant to <u>N.J.A.C. 5:93</u>)	261
Third Round (1999-2025) Obligation (per Reading Report for Morris County and as established in this Agreement)	643

FSHC and the Township agree to the terms in this agreement solely for the purposes of settlement of this action. FSHC and the Township, which each have their own methodology consultants, accept the Third Round obligation in the Reading Report of 643 units solely for the purposes of achieving a settlement of the litigation and is without prejudice to the parties' ability to challenge that Third Round number during any proceedings involving subsequent rounds of affordable housing calculations after July 1, 2025.

4. For purposes of this Agreement, the Third Round Obligation shall be deemed to include the Gap Period present need which is a measure of households formed from 1999-2015 that need affordable housing that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017), and the Prospective Need, which is a measure of the affordable housing need anticipated to be generated between July 1, 2015 and June 30, 2025.
5. The Township's efforts to meet its present need include the following: Participation in Morris County Rehabilitation Program and, to supplement the Morris County program, the Township will advertise on its official website the availability of funds to owners of rental units occupied by qualified very low, low and moderate income individuals and/or households. for the rehabilitation of such rental units. The Township shall review the applications for such funds and have their Administrative Agent income qualify the respective tenants of the rental units. Funding in the amount of \$10,000 per unit for 8 rental units shall be made available from the Township's Affordable Housing Trust Fund or from any other Township source, provided that if there is demand in excess of the 8 rental units and the Township has not otherwise met its present need obligation through participation in the Morris County program the Township may be required to provide additional rental rehabilitation funding. This is sufficient to satisfy the Township's present need obligation of 33 units.
6. As noted above, the Township has a Prior Round (new construction) Obligation of 261 units, which is met through the below listed compliance mechanisms:

Development Name	# of AH units	# of Bonus Credits	Total Credits	Status
Canfield Mews (Block 42, Lots 1 & 1.01)	38	38	76	Completed; family rental
Arrowgate (Block 42, Lot 122.01)	27	27	54	Completed; family rental

Brookside Village (Block 224, Lot 79.01)	10		10	Completed; family, for-sale
Woodmont (Block 119, Lot 109.11)	40		40	Completed; family, for-sale
India Brook Senior Housing (Block 93, Lot 56.01)	65		65	Completed; age-restricted rental
Peer Group Housing (Block 17, Lot 18)	4	1	5	Completed; supportive housing
ARC, Much Dignity House (Block 176, Lot 82)	6		6	Completed Supportive Housing
Schoolhouse Group Home (Block 82, Lot 30)	5		5	Completed; Supportive Housing
Totals	195	66	261	

During the compliance phase of this litigation, the Township shall provide information to the Special Master, FSHC, and ultimately the Court to confirm that (a) to the degree that any details of the crediting in the above have changed since COAH's report requesting additional information on December 1, 2005 including tenure and/or bonuses, those changes are confirmed; (b) no units have been lost to foreclosure; and (c) any units not reflected as built and deed-restricted as of the 2005 COAH report have been properly completed as affordable housing and deed-restricted.

7. As noted above, the Township has a Third Round (new construction) Obligation of 643 units, which is or will be addressed as follows:

Completed and Approved Developments				
Development Name	# of AH units	# of Bonus Credits	Total Credits	Status/ Comments
Woodmont (Extension) (Block 119, Lot 109.11)	40		40	Extension of Controls; for-sale
Boulder Ridge (Block 184, Lots 1 and 1.20)	17		17	Family, for-sale
Grecco Realty, LLC, 477 Route 10 (Block 111, Lots 10-16)	5		5	Age-restricted Rental
Rose of Sharon, 236 Dover-Chester Road (Block 21, Lot 29)	1		1	Family rental
Bennett Ave Family Housing (Block 191, Lots 7, 8, 11-13 & Block 195, Lots 3 & 4)	32	32	64	Family rental
Morris County AHC (Block 191, Lots 14 and 15)	6		6	Family, for-sale
Habitat House (Block 59, Lot 15)	1		1	Family, for-sale
Habitat House (Block 134, Lot 3.02)	1		1	Family, for-sale
Habitat House (Block 134, Lot 9)	1		1	Family, for-sale

India Brook Senior Housing (Block 93, Lot 56.01)	35		35	Age-restricted rental
High Avenue House (Block 53, Lot 44)	4	4	8	Supportive Housing
Our House (Block 35, Lot 28)	3	3	6	Supportive Housing
Skylands Group Home (Block 50, Lot 6)	4	4	8	Supportive Housing
Sunrise Assisted Living, 648 Route 10	8		8	Assisted Living, age-restricted
Brightview Assisted Living, 175 Quaker Church Rd.	6		6	Assisted Living, age-restricted
Sub-total	164	43	207	
Proposed New Developments				
Randolph Mountain, Appio Drive (Block 199, Lot, 9)	7		7	Family, for-sale
KAB Mount Freedom (Block 224, Lot 5)	14	3	17	Family, rental
Canoe Brook (Block 44, Lot 25)	40	40	80	Family, rental
Elbaum Site (Block 97, Lots 26, 27.01, 27.02)	3		3	Family, rental
LYS/Sporn (Block 44, Lot 4)	27		27	Family, for-sale
Skylands Site (Block 42, Lot 5) (see para 8(e) below)	60	60	120	Family, rental
Heller Site (Block 119, Lot 130)	30		30	Age-restricted, Rental
Gateway Apartments (Block 77, Lots 30 and 31)	15	15	30	Family, rental
E.A. Porter Site – H4H (Block 195, Lot 10)	25		25	Family, for-sale
Morris County Housing Authority (Block 191, Lot 11)	2		2	Family, for-sale
Franklin Road Sites (Block 196, Lots 2, 3, and 4)	36		36	Family
Sub-total Proposed	259	118	377	
Sub-total Existing	164	43	207	
Total	423	161	584	

During the compliance phase of this litigation, the Township shall provide information to the Special Master, FSHC, and ultimately the Court to confirm compliance of all Third Round units with all applicable rules and the terms of this settlement.

8. The Township shall provide a realistic opportunity for the development of affordable housing through the adoption of inclusionary zoning on the following sites:

- a. KAB Mount Freedom (Block 224 Lot 5) – the Township will rezone this 7-acre site that is owned by a developer-intervenor to permit up to 10 du/a and requiring a 20% set-aside of 14 family rental units in conformance with the terms of this agreement.
- b. Canoe Brook Site (Block 44, Lot 25) – the Township and the developer-intervenor have entered into a settlement agreement dated September 24, 2020, for the development of 199 total residential units with a 20% set-aside of 40 affordable housing units. This settlement agreement was approved by the court pursuant to a duly-notice fairness hearing on December 17, 2020.
- c. Elbaum Site (Block 97, Lots 26, 27.01, and 27.02) – the Township has rezoned this 1.5-acre site to permit the development of 15 total residential units and require a 20% set-aside of 3 rental affordable housing units.
- d. LYS/Sporn (Block 44, Lot 4) – the Township and the developer-intervenor have entered into a settlement agreement dated September 24, 2020, for the development of 135 total residential units with a 20% set-aside of 27 affordable housing units. This settlement agreement was approved by the court pursuant to a duly-noticed fairness hearing on December 17, 2020.
- e. Skylands (Block 42, Lot 5) –the Township will rezone this site to permit the development of 300 total residential units with a 20% set-aside of 60 affordable. Within thirty (30) days of the execution of this Settlement Agreement by the Parties, the Township shall advise the Special Master and counsel for the Township and for Fair Share Housing Center in writing of the agreement and commitment of the current owner of Block 42 Lot 5 ("Skylands Property"), GREF-Skylands I, LLC, a subsidiary of GreenLake Asset Management, LLC, ("GreenLake") to market the Skylands Property exclusively for inclusionary development of an aggregate of 300 units with a 20% set-aside for very-low, low, and moderate income households in accordance with the terms of this settlement (60 of the aggregate 300 units), with the affordable units being family rental units, and that the Skylands Property shall cease to be utilized or marketed/sold for any nonresidential use. The Township shall produce a written commitment to this effect within the 30 day window above mentioned.
 - i. Upon receipt of such a commitment and the designation of the properties to address the 59-unit obligation referenced in paragraph 9 below, the parties to this Settlement Agreement shall request that the court schedule a "Fairness Hearing" on the Settlement Agreement. Provided such a commitment is received for GreenLake, the Township shall adopt inclusionary zoning on the property consistent with this commitment no later than November 30, 2021. GreenLake or its successor in interest shall receive final site plan approval for a multi-family inclusionary residential development with 300 units and a 20% set-aside of affordable family rental units within eighteen (18) months after the adoption of the zoning ordinance.
 - ii. In the event the site has not received final site plan approval in this timeframe the Township will agree to address the shortfall with either (a) rezoning that provides a realistic opportunity for an inclusionary family rental development of 300 units with a 20% set-aside elsewhere in the Township on a site that is available, approvable, developable, and suitable and otherwise complies with the terms of this settlement agreement and for which the property owner and developer can provide a firm commitment for the sixty (60) family rental affordable units and bonuses; or (b) rezoning that provides a realistic opportunity for an

inclusionary family development (regardless of tenure) of 300 units with a 20% set-aside elsewhere in the Township on a site that is available, approvable, developable, and suitable and otherwise complies with the terms of this settlement agreement and providing a realistic opportunity for sixty (60) additional units and/or eligible bonuses pursuant to N.J.A.C. 5:93-5.15 that otherwise comply with the terms of this agreement.

iii. If the Township is not able to provide such a written commitment from GreenLake by the date required, Randolph shall replace the Skylands Property no later than sixty (60) days following the date of the execution of the settlement agreement by the parties with other mechanisms to create a realistic opportunity which, in the aggregate, will permit the construction of an equal number of affordable housing units." on the same terms that would be required in the preceding paragraph if the GreenLake site is rezoned but no site plan approval is granted within eighteen (18) months.

f. Gateway Apartments (Block 77, Lots 30 and 31) – the Township has rezoned this property to permit the development of 100 total residential units with a 15% set-aside of 15 affordable housing units, the application for which has been approved by the Planning Board.

g. Franklin Road sites (Block 196, Lots 2, 3, and 4) – the Township will rezone these properties with 15 total acres to permit residential development up to 12 du/a and requiring a 20% set-aside of 36 affordable housing units. The Township will enter into an amended Agreement with the Town of Dover to include these Lots in the Dover Water Service Area prior to receiving a judgment of compliance.

9. The Township has limited capacity for water within the area of the Township served by the Morris County Municipal Utilities Authority (MCMUA). The capacity may be sufficient to meet the Township's full obligation and other planned residential and non-residential development in the Township, when taking to account also that several of the sites in this settlement are serviced by the Town of Dover's water system. That said, the parties agree that the limited quantity of water supports certain actions to be taken to ensure provision of water to the sites in the plan and ensure a realistic opportunity for the 59-unit portion of the 643 unit Third Round obligation not addressed in the chart in paragraph 7 above.

a. The Township shall reserve and set-aside sufficient water capacity from its allocation from the MCMUA to support all of the sites for low and moderate income housing in this agreement served by the MCMUA and document such reservation and the legal mechanism for effectuating such, at which time, upon approval of this Agreement and such reservation by the Court, the Scarce Resource Order entered on June 6, 2018 shall be vacated, null and void and of no legal effect. All additional water which becomes available to the Township through the remainder of the Third Round not needed for the sites in this agreement may be used for residential and non-residential development not associated with the production of affordable housing units.

i. The annual reporting as set forth in Section 20 of this Agreement shall include an accounting of the water capacity reserved for the affordable units in the plan and the amount of excess capacity made available for other development. Municipal officials shall endorse all applications to the Department of Environmental Protection (DEP) or its agent to provide

water and/or sewer capacity to projects associated with the development of affordable housing units.

ii. Within sixty (60) days of the execution of this settlement agreement, the Township agrees to identify the specific properties within the SS/VO AND VCR-3 Zones set forth in subsection iii immediately below and/or elsewhere in the Township for which the available water will be reserved and provide adequate support to the reasonable satisfaction of the Special Master and FSHC to demonstrate that the properties provide a realistic opportunity to be developed in accordance with such inclusionary zoning, or through other mechanisms consistent with applicable law and the terms of this Agreement. Upon approval by the Special Master and FSHC ("Accepted Properties") and the court at a fairness hearing, the Township agrees to rezone the properties consistent with the densities set forth below.

iii. The Township shall designate and rezone the Accepted Properties for low and moderate income housing within the zones referenced below at the following densities:

1. Amended SS/VO Zone – the Township agrees to rezone the Accepted Properties with inclusionary zoning to permit up to 15 du/a and require a 20% set-aside. This zone includes 18 properties with a total of approximately 8 acres. This inclusionary zoning could produce up to 21 affordable housing units.
2. Amended VCR-3 Overlay Zone – the Township agrees to rezone the Accepted Properties with inclusionary zoning to permit up to 15 du/a and require a 20% set-aside. This zone includes 17 properties with a total of approximately 15 acres. This inclusionary zoning could produce up to 39 affordable housing units.
3. These two areas were selected because they were already identified as areas where growth would be encouraged through increased density, they have access to water infrastructure , and because they have already produced affordable housing units. The Township as noted above also reserves the right to identify other sites and/or mechanisms to address part or all of the remaining 59 unit obligation.

iv. The requirements included in N.J.A.C. 5:93-4.3(c)3 and 4 related to inclusion in a fair share plan when the DEP or its designated agent approves a proposal to provide water and/or sewer to a site other than those designated for the development of low and moderate income housing in the housing element are hereby waived in accordance with N.J.A.C. 5:93-4.3(c)4, which permits waiver of such requirements when a municipality has a plan that will provide water and/or sewer to sufficient sites to address the municipal housing obligation within the substantive certification period.

10. In addition to the properties listed in Paragraph 8, the Township has agreed to abide by and enforce the Court decisions addressing the Randolph Mountain site located at Block 199 Lots 6 and 9. The owner of the Randolph Mountain site filed a complaint against the Township and, as a result of many years of litigation and court orders, including a 2002 Appellate Division opinion, a 2007 Appellate Division opinion, Orders from the Superior Court dated December 15, 2003, May 26, 2004, July 9, 2004, and June 12, 2006 Orders and a 1987 COAH Mediation

Agreement, the Township must include this site in its affordable housing planning consistent with the 2007 Appellate Division opinion which requires application of the Township Land Use Ordinance in effect in 1989 and a 20% set-aside for affordable housing. The Township has adopted Ordinance Numbers 36-07 and 37-07 on January 17, 2008, which rezones Block 199 Lots 6 and 9 to implement such Court Orders. As part of this agreement, the Township is seeking to receive affordable housing credit for 7 affordable units that may be developed on Lot 9 that will meet the third round obligation. Any additional affordable units beyond the 7 units previously cited, that are actually constructed on Lot 9 (up to a maximum of 10 affordable housing units are permitted to be constructed on Lot 9 in accordance with Ordinance 36-07) may be used to meet the fourth round obligation in accordance with then-applicable law.

11. The Township will provide a realistic opportunity for the development of additional affordable housing that will be developed or created through means other than inclusionary zoning in the following ways:

- a. E. A. Porter site (Block 195 Lot 10) – the Township has been working with the Morris County Habitat for Humanity to develop this property owned by the Township with 25 family for-sale affordable housing units. The Township has agreed to convey the property to the Morris County Habitat for Humanity pursuant to a 2015 agreement. As part of the Township's 2012 Spending Plan, the Township agreed to provide \$45,000 per unit for a total of \$1,100,000. Pursuant to a 2019 updated Spending Plan and a consent order entered by the court on January 15, 2020 the Township will expend an additional \$900,000 to assist in the cleanup of this former industrial site. The Township has conveyed this property to 42 Bennett Avenue Randolph, LLC, a wholly and solely owned not-for-profit subsidiary of Morris Habitat for Humanity Inc., on July 27, 2021 together with the sum of \$1,473,000 from its Affordable Housing Trust Fund to commence construction of the site work, complete the remaining remediation of the site (engineering and institutional controls), and construct the 25 family for-sale affordable housing units on the property.
- b. Morris County Housing Authority (Block 191 Lot 11) –Two affordable units to be constructed.

In accordance with N.J.A.C. 5:93-5.5, the Township recognizes that evidence of adequate and stable funding must be provided for any non-inclusionary affordable housing developments. The municipality shall direct that the project sponsors provide a pro forma of both total development costs and anticipated sources of funds and documentation of the funding available to the municipality and/or project sponsor, and any applications still pending. The Township will provide this information as part of its Housing Element and Fair Share Plan.

The E. A. Porter project has received site plan approval from the Randolph Township Planning Board on July 8, 2018. In addition to the above, a construction or implementation schedule, or timetable, shall be submitted for each step in the development process: including applications for State and Federal permits, selection of a contractor and construction. The schedule shall provide for construction to begin within two years of the court's approval of this settlement agreement. The municipality shall indicate the entity responsible for undertaking and monitoring the construction and overall development

activity. The Township will provide this information as part of its Housing Element and Fair Share Plan.

The Township agrees that the project sponsor must diligently pursue financing options for this project. If the project sponsor is unable to secure adequate funding in order to begin construction of the project within two years of the court's approval of this settlement agreement, the property will revert to the Township under the reverter language in the Deed (Fee Simple Determinable with a Possibility of Reverter) and the Township will seek another non-profit developer for these projects to provide a realistic opportunity for a minimum of 25 affordable housing units beyond other units contemplated in this Agreement, unless the Township has created a realistic opportunity for additional affordable units not referenced in this Agreement ("Unanticipated Units") in which case the minimum 25 affordable units shall be reduced by said Unanticipated Units. If the Township replaces any or all of the 25 units, the units that replace any or all of the 25 affordable units will be in compliance with all terms of this Agreement.

In the event that the project sponsor or another non-profit developer cannot begin construction of the proposed project, due to lack of funding or otherwise, within two years of the court's approval of this agreement, the Township, in its sole discretion, within six months after the expiration of the two year period, will either (i) amend its Plan, subject to the review and comment of FSHC and review and approval of the Court, to include valid compliance mechanisms that do not rely upon securing outside funding that will provide a realistic opportunity for a minimum of 25 affordable housing units beyond other units contemplated in this Agreement, unless the Township has created a realistic opportunity for additional affordable units not referenced in this Agreement ("Unanticipated Units") in which case the minimum 25 affordable units shall be reduced by said Unanticipated Units; or (ii) bond to provide funding for the proposed project. If the Township replaces some or all of the 25 units, all units that replace the 25 affordable units will be in compliance with all terms of this Agreement.

12. The Township agrees to require 13% of all units constructed after July 1, 2008, with the exception of units constructed after July 1, 2008 that had been granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The municipality will comply with those requirements as follows:

Very-Low Income Units			
Development Name	Controls Date	# of AH units	# of VLI units
Franklin Road sites (Block 196 Lots 2, 3, and 4)	N/A	36	5
KAB Mt. Freedom Site, Block 224, Lot 5	N/A	14	2
Canoe Brook Site, Block 44, Lot 25	N/A	40	5
LYS/Sporn Site, Block 44, Lot 4	N/A	27	4
Skylands Site, Block 42, Lot 5	N/A	60	8
E.A Porter Site, Block 195, Lot 10	N/A	25	2
Heller Site, Portion of Block 119, Lot 130	N/A	30	4

- a. In addition, the Township agrees to require that 13% of any affordable housing units developed pursuant to each site and/or mechanism implemented

pursuant to Paragraph 9 shall available to households earning less than 30% of median-income.

- b. The Township may, at its discretion, round the very low income obligation for a particular project up or down; notwithstanding the Township shall be responsible for ensuring not less than 13% of the affordable units created after July 1, 2008 are restricted for very low income households by July 1, 2025.
13. The Township shall meet its Third Round Obligation in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 6 above:
 - a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
 - b. At least 50 percent of the units addressing the Third Round Obligation shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
 - c. At least twenty-five percent of the Third Round Obligation shall be met through rental units, including at least half in rental units available to families.
 - d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.
 - e. The Township agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.
14. The Township shall add 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, the New Jersey State Conference of the NAACP, the Latino Action Network, the Morris County Chapter of the NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc. (NORWESCAP), Homeless Solutions of Morristown, the Supportive Housing Association and the New Jersey Housing Resource Center, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide direct notice to those organizations of all available affordable housing units, along with copies of application forms. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
15. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, 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 at 35 percent of median income, 13 percent of affordable units in rental projects shall be required to be at 30 percent of median

income, and in conformance with all other applicable law. The Township, as part of its HEFSP, 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.

a. Income limits for all units that are part of the 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 in accordance with the Consent Order entered by the Court on March 26, 2019 and that is attached hereto as Exhibit A.

16. 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.

17. As an essential term of this Agreement, within one hundred twenty (120) days of the Court's approval of this Agreement, and the entry of an order approving the agreement following a fairness hearing, the Township shall introduce and adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and shall endorse a Housing Element and Fair Share Plan to be adopted by the Planning Board and adopt a Spending Plan in conformance with the terms of this Agreement. The Township shall provide all information and documents necessary to demonstrate creditworthiness of all credits meeting the prior and third round obligation within sixty (60) days of the court's approval of this Agreement. The Township shall not be required to submit documentation on projects that were constructed and occupied at the time of the 2005 "COAH Report Requesting Additional Information", provided the units are proposed for the same credit in this Settlement Agreement (i.e. this excludes units identified as having different tenures, and units which did not demonstrate eligibility for bonus credits), and the Township confirms that no such affordable unit has been foreclosed upon since that time.

18. The parties agree that if a decision of a court of competent jurisdiction in Morris County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Township for the period 1999-2025 that would be lower by more than ten (10%) percent than the total prospective Third Round Obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment (or the time to appeal has expired), the Township may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Township shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including maintaining all site specific zoning; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms set forth herein to address unmet need; and otherwise fully implementing the mechanisms to address the fair share obligations as established in this Agreement. The reduction of the Township's Third Round Obligation as established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Township prevails in reducing its Third Round Obligation, the Township may

carryover any resulting extra credits to future rounds in conformance with the then-applicable law.

19. The Township will prepare a Spending Plan as part of its HEFSP. The parties to this Agreement agree that the Spending Plan will be provided to FSHC for review and will be prepared in accordance with accepted standards to be approved by the Court and that the Township may request the Court to find that the expenditures of funds contemplated under the Spending Plan approved by the Court constitute a "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment in this matter that includes approval of the Spending Plan 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). On the first anniversary of the Court's approval of the Spending Plan, and on every anniversary of that date thereafter through July 1, 2025, the Township agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center 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. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
20. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, 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 Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
21. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the 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 Fair Share Housing Center, a status report as to its implementation of the 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 Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues. The parties recognize that the compliance process for this Agreement will still be ongoing as of the point of the statutory midpoint review.
 - 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 this

Agreement, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, 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 Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.

22. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervener, but the absence of such an order shall not impact FSHC's rights.
23. This Agreement must be approved by the Court following a fairness hearing as required by 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. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties agree that the municipality will be entitled to either a "Judgment of Compliance and Repose" or "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," (collectively "Final Judgment") 221 NJ 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 and accompanying protections. The "accompanying protection" or repose shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
24. Within 45 days of the entry of an Order approving this Settlement Agreement at a duly noticed Fairness Hearing, the Township shall pay to FSHC as a donation for the advancement of affordable housing in the amount of \$75,000.
25. If an appeal is filed of the Court's approval or rejection of this Agreement and/or Final Judgment, the Parties agree to defend the Agreement and/or Final Judgment on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before 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 rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
26. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Morris County.
27. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable, except the entry of a Final Judgment. 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, unless the Final Judgment is rescinded or vacated. 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, unless the Final Judgment is rescinded or vacated.

28. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
29. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
30. 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.
31. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
32. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
33. 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 Parties.
34. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
35. No member, official or employee of the Township 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.
36. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
37. All Notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight carrier or by a personal carrier. In addition, where

feasible (for example, transmittals of less than fifty pages) Notices shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be effected 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 M. Gordon, Esquire
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE TOWNSHIP: Township of Randolph
Municipal Building
502 Millbrook Avenue
Randolph, New Jersey 07869
Attn: Stephen Mountain, Township Manager
Phone: (973) 989-7060
Email: smountain@RandolphNJ.org

**WITH A COPY TO THE
MUNICIPAL CLERK:** Donna Marie Luciani, Township Clerk
Township of Randolph
Municipal Building
502 Millbrook Avenue
Randolph, New Jersey 07869
Phone: (973) 989-7041
Email: dluciani@RandolphNJ.org

AND A COPY TO: Edward J. Buzak, Esq.
The Buzak Law Group, LLC
150 River Road, Suite N-4
Montville, NJ 07045
Phone: (973) 335-0600
Email: ejbuzak@buzaklawgroup.com

Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

On behalf of the Township of Randolph, with the authorization
of the governing body:

Dated: _____

EXHIBIT A: Consent Order entered by the Court on March 26, 2019

APPENDIX B.

DETERMINATION OF LOW- AND MODERATE-INCOME HOUSING NEEDS IN MORRIS COUNTY,
BASED UPON THE MERCER COUNTY OPINION, DATED JULY 17, 2018, PREPARED BY RICHARD
R. READING

**DETERMINATION OF
LOW AND MODERATE INCOME HOUSING NEEDS
IN
MORRIS COUNTY
BASED UPON THE MERCER COUNTY OPINION**

July 17, 2018

Submitted to: Honorable Maryann L. Nergaard, J.S.C.
Morris County Courthouse
Washington and Court Streets, P. O. Box 910
Morristown, New Jersey 07963-0910

Prepared by: Richard B. Reading
Richard B. Reading Associates
759 State Road
Princeton, New Jersey 08540

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1.0 INTRODUCTION

The failure of the Council On Affordable Housing (COAH) to fulfil its responsibilities under the Fair Housing Act and its own regulations, and its inability to adopt third round rules as directed by the New Jersey Supreme Court, resulted in the Court's March 10, 2015 decision in "Mount Laurel IV". As a result of COAH's inability to act, the Court in Mount Laurel IV, has returned to the courts their role as the forum of first resort for evaluating municipal compliance with Mount Laurel¹ obligations. Because of COAH's inactions, the Mount Laurel designated judges must now, not only hear and decide actions addressing municipal compliance with constitutional obligations, but must also establish a "fair share" against which municipal compliance may be measured. The absence of an established "yardstick" for the measurement of municipal compliance, previously provided by COAH, is complicated by a significant divergence of opinions advanced by the competing interests as to an appropriate calculation of a municipality's "fair share".

Morris County, along with Essex , Union and Warren counties are located in the "Northwest" Region of New Jersey (Region 2) as established by COAH pursuant to the provisions of the New Jersey Fair Housing Act (FHA). The threshold issue of the appropriate methodology to be utilized for the determination of regional affordable housing needs and the assignment of affordable housing needs to the municipalities in the region was initially addressed in Ocean County within Region 4 by the Honorable Mark Troncone, J.S.C., and was the subject of a February 18, 2016 opinion that addressed the treatment of the housing need that arose during 1999-2015 "gap period" of COAH's inaction. This opinion was reviewed by the Appellate Division and was subsequently affirmed but modified in the January 18, 2017 decision of the Supreme Court (Mount Laurel V). Mount Laurel V has further clarified the consideration and inclusion of the gap period housing needs within an expansion of Present Need to include a gap component referred to as "Gap Present Need". All of the municipalities in the Ocean County settled their cases and the Ocean County trial was not resumed.

A trial on the methodology to be utilized in determining regional and municipal affordable housing needs was scheduled in Mercer County by the Honorable Judge Mary C. Jacobson, A.J.S.C., commenced in Mercer County on January 9, 2017 and continued through June 19, 2017, consuming

¹ Southern Burlington NAACP v. Twp. of Mount Laurel, 67 N.J. 151 (1975), Southern Burlington County NAACP, et al v. Township of Mount Laurel 92 N.J. 158 (1983 (Mount Laurel II)

over 40 trial days addressing both Prospective Need and Gap Present Need methodologies. The Mercer County trial commenced prior to the Mount Laurel V decision and was bifurcated into two phases: Phase 1 dealing with the Prospective Need methodology and Phase 2 addressing the methodology to determine Gap Present Need.

On March 8, 2018, Judge Jacobson issued a detailed and comprehensive opinion that set forth the details of the methodologies to be utilized for the establishment of the of the affordable housing needs for the two municipalities (Princeton and West Windsor) still seeking declaratory judgments in Mercer County. The Mercer County opinion presents a detailed review of the positions presented by the competing interests as to the appropriate methodology to be used in establishing various affordable needs, and provides the court's determination of the preferred approach to be used.

Following the issuance of the Mercer County opinion, a Motion to Reconsider was filed on March 28, 2018 on behalf of West Windsor Township by Jeffrey R. Surenian, Esq and Edward J. Buzak, Esq. and sought minor technical adjustments to the implementation of this Opinion. In response to West Windsor Township's Motion for Reconsideration, Fair Share Housing Center filed a Cross-Motion for Reconsideration on April 20, 2018 and addressed the adjustments suggested in West Windsor's Motion. Following the receipt of FSHC's cross-motion, West Windsor was granted an opportunity to respond to the cross-motion and submitted a "Reply" on May 12, 2018. These Motions were addressed in a proceeding scheduled before the court on June 19, 2018 and after consideration of the motion and cross-motion, certifications, reports and briefs filed on behalf of the parties and oral argument of counsel, the court denied both the motion and cross-motion for reconsideration. Accordingly, the Mercer County opinion issued on March 28, 2018 remains undisturbed and reflects the court's preferred methodological approach.

The ensuing review and determination of the affordable housing needs of the municipalities in Morris County has been prepared at the request of the Honorable Maryann L Nergaard in connection with the declaratory judgment actions filed by municipalities in Morris County. The purpose of this review and examination is to apply to the principles elucidated in the Mercer County Opinion for the determination of each of the categories of affordable housing need for the municipalities located in Morris County.

2.0 THE REVIEW PROCESS

The Mercer County trial heard and examined the methodological positions of the various parties participating in this trial and rendered opinions as to the procedures adopted by the court. Although there were a substantial number of interested parties involved in the Mercer County trial, only two entities have produced and submitted complete "methodologies" that actually result in the calculation of affordable housing needs. These "methodologies" include the reports produced by David N. Kinsey on behalf of FSHC and the work prepared by Econsult Solutions on behalf of the consortium of municipalities. The parties engaged in the determination of the "methodology" in the Mercer County trial are the same parties engaged in Morris County. Significantly, the same reports submitted in Mercer County are the same reports relied upon in the Morris County proceedings. The reports that have been submitted and identified as being of relevance to the issues of methodology in both Mercer and Morris counties, include the following submissions:

FSHC Methodology Reports

April 16, 2015, New Jersey Low and Moderate Income Housing Obligations for 1999-2025 Calculated Using the NJ COAH Prior Round (1987-1999) Methodology, Fair Share Housing Center, David N. Kinsey, PhD.

July 2015 (Revised), New Jersey Low and Moderate Income Housing Obligations for 1999-2025 Calculated Using the NJ COAH Prior Round (1987-1999) Methodology, Fair Share Housing Center, David N. Kinsey, PhD.

March 24, 2016, New Jersey Fair Share Housing Obligations for 1999-2025 (Third Round) Under Mount Laurel IV for Ocean County, Fair Share Housing Center, David N. Kinsey, PhD.

May 17, 2016, New Jersey Fair Share Housing Obligations for 1999-2025 (Third Round) Under Mount Laurel IV for Ocean County, Fair Share Housing Center, David N. Kinsey, PhD.

FSHC Gap Present Need Reports

April 12, 2017, New Jersey Gap Present Need Housing Obligations, 1999-2015, Fair Share Housing Center, David N. Kinsey, PhD.

April 24, 2017, Response to Reports On Gap Present Need, April 24, 2017, Fair Share Housing Center, David N. Kinsey, PhD.

Econsult Methodology Reports

December 30, 2015, New Jersey Affordable Housing Need and Obligations, Econsult Solutions, Inc., Peter A. Angelides, PhD.

March 24, 2016, New Jersey Affordable Housing Need and Obligations, Econsult Solutions, Inc., Peter A. Angelides, PhD.

May 16, 2016, New Jersey Affordable Housing Need and Obligations, Econsult Solutions, Inc., Peter A. Angelides, PhD.

Econsult Gap Present Need Reports

April 12, 2017, Affordable Housing Obligations Including Gap Present Need, Econsult Solutions, Peter A. Angelides, PhD.

April 24, 2017, ESI Comments on FSHC Present Need Reports, Econsult Solutions, Peter A. Angelides, PhD.

The primary documents that provide methodologies to facilitate the calculation of affordable housing needs are FSHC's July 2015 and March 24, 2016 reports, as supplemented, updated and revised in their May 17, 2016 report; Econsult's December 30, 2015 and March 24, 2016 reports, as supplemented, updated and revised in their May 16, 2016 report. The methodology reports submitted on May 16, 2016 (Econsult) and May 17, 2016 (FSHC), represented the most up-to-date data at that time and presented complete, statewide methodologies for the calculation of municipal and regional affordable housing needs, supplementing and replacing their prior submissions.

The May 16, 2016 Econsult report provided data consistent with a 2015-2025 prospective need while the May 17, 2016 FSHC report included the gap period within a cumulative 1999-2025 prospective need in its municipal allocations and must be disaggregated for comparative purposes. These May 2016 reports, which include a complete, statewide calculation of affordable housing needs were the primary documents that were identified as the source of the methodology upon which FSI JC and the municipalities were relying upon for the Mercer County methodology² trial.

The aforesigned methodology reports preceded the Appellate Division's July 11, 2016 opinion and the subsequent appeal to the New Jersey Supreme Court that was decided on January 18, 2017.

² The Phase 1 methodology trial did not include Gap Present Need

In recognition of the July 11, 2016 Appellate opinion and Supreme Court's January 11, 2017 (Mount Laurel V) decision, FSHC and Econsult have prepared additional reports, dated April 12, 2017, that directly address the gap period issues and were the subject of the "Phase 2" methodology trial in Mercer County that concluded on June 19, 2017. As a result of this extended time frame and the intervening Appellate and Supreme Court decisions, the competing methodologies are presented in a bifurcated fashion, with the May 2016 reports addressing prior round (1987-99) obligations, traditional Present Need (2015) and Prospective Need (2015-2015). The Court-ordered expansion of Present Need to include a gap component was addressed separately in the April 2017 Gap Present Need reports. While it would have been preferable to have the entire methodology for determining municipal and regional affordable housing needs addressed in a single report, this bifurcated methodology represented the most up-to-date positions of the competing methodologies.

3.0 HOUSING REGIONS

The New Jersey Supreme Court in its Mount Laurel decisions, and the Fair Housing Act have determined that municipalities have “a constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of its region’s present and prospective needs for housing for low and moderate income families” (N.J.A.C. 52:27D-302).

Prior Round Delineations

There were six Housing Regions established in Round 1, and these Regions were adjusted in Round 2 to include at least one “central city” and to consider “journey to work” information. The adjustments that were undertaken in Round 2 moved Sussex County from Region 2 to Region 1; Warren County from Region 3 to Region 2 and Mercer County from Region 5 to Region 4. These Round 2 revisions resulted in the following Regions, which have not been further adjusted:

New Jersey Council On Affordable Housing Regions (1993-1999)

<u>Region</u>	<u>Counties Included</u>
Region 1- Northeast	Bergen, Passaic, Hudson, Sussex
Region 2 -Northwest	Essex, Morris, Union, Warren
Region 3 - West Central	Middlesex, Somerset, Hunterdon
Region 4 - East Central	Monmouth, Ocean, Mercer
Region 5 - Southwest	Camden, Gloucester, Burlington
Region 6 - South-Southwest	Atlantic, Cape May, Cumberland, Salem

The Round 3 calculations prepared by COAH, through the last, unadopted regulations published on June 2, 2014, continued to utilize the Housing Regions that were established in Round 2, notwithstanding more recent information available from both the 2000 and 2010 Census.

FSHC Regions - The methodology employed by the Fair Share Housing Center in its May 17, 2016 report: “New Jersey Fair Share Housing Obligations for 1999-2025” has adopted and utilized, the Round 2 Housing Regions. It is further noted by FSHC (page 26) that “COAH reexamined and reaffirmed these six housing regions in 2004, 2008 and 2014. No further analysis or change in housing regions is required”.

Econsult Regions - The May 16, 2016 report prepared by Econsult Solutions entitled “New Jersey Affordable Housing Need and Obligations” presented a more detailed examination of Housing Regions established in the Prior Rounds. Econsult reviewed the definition of the Housing Regions established in Round 1 and in Round 2, examined live/work relationships, discussed the changes in the 1999 PMSA and 2013 Metropolitan Area definitions and concluded that while other configurations are possible, these other combinations would be influenced by judgmental factors that would need to be balanced with the FHA’s objective of defining regions “which exhibit social, economic and income similarities”. In the absence of an alternative standard, Econsult has also utilized the regions defined in Round 2 and most recently used by COAH and FSIIIC.

Mercer County Opinion - The housing regions established pursuant to the FHA, established (modified) by COAH in Round 2 and were maintained by COAH in all three iterations of the third round rules. The designation of Morris County within the Northwest (Region 2) along with Essex, Union and Warren Ocean counties has been accepted by both FSHC and Econsult in their most recent (May 2016) methodologies. To the extent that there was no disagreement as to the delineation of, and the specific counties included within, the housing regions, there was no testimony at trial or in the Mercer Opinion as to the regions for which the needs would be determined.

4.0 PRIOR ROUND OBLIGATIONS

The municipal affordable housing needs that were established in the Prior Rounds (1987-1999) that have not been satisfied, continue as an unmet obligation, legally assigned by COAH, that remain to be fulfilled by those municipalities. The Supreme Court, in its March 2015 decision, confirmed that municipalities are expected to fulfill their prior round obligations that were established for the period from 1987-1999.

1987-1999 Obligations

The records maintained by the New Jersey Department of Community Affairs reveal that the data representing the municipal Round 1 and Round 2 obligations, as originally assigned in 1993, yielded a total Statewide affordable housing obligation for 85,853 units, which is slightly different than the total of 85,964 units published in 2008 by COAH in the second iteration of the Third Round rules.

FSHC Prior Round Obligation - The May 17, 2016 report prepared for FSHC discloses a Prior Round Obligation for 85,964 affordable housing unit and is reported to be based upon the COAH's calculation in 1993-1994 and published in 2008.

Econsult Prior Round Obligation - Econsult's May 16, 2016 "New Jersey Affordable Housing Need and Obligations" report identifies a Prior Round Obligation for 85,853 affordable housing units, which is the obligation maintained by the New Jersey Department of Community Affairs and assigned to municipalities for Round 2 in 1993.

Morris County Prior Round Obligations

In the context of Region 2, the Prior Round Obligations reported by FSHC amount to 9,294 units while Econsult reports a total of 9,382 units. The total difference in the prior round obligation

for Region 2 amounts to 88 units and is confined to two (2) municipalities³ located in Morris County:

Prior Round (1987-1999) Affordable Housing Obligations

	FSHC <u>05/17/16</u>	Econsult <u>05/16/16</u>	<u>Difference</u>
Essex County	1,930	1,930	0
Morris County	4,975	5,063	-88
Union County	1,967	1,967	0
Warren County	<u>422</u>	<u>422</u>	<u>0</u>
Region 2	9,294	9,382	-88

The overall deviations in Region 2 are attributable to a 89 unit decrease in the prior round obligation for the Town of Morristown and a 1 unit increase in the obligation for Parsippany-Troy Hills Township, yielding a net decrease of 88 units in both Morris County and Region 2.

Mercer County Opinion

The two measurements of the 1987-1999 Prior Round Obligations prepared by COAH in 1993 and 2008 COAH reflect a minor deviation of 111 units statewide, a deviation of 88 units in Morris County and Region 2. The latter (2008) tabulation prepared by COAH was adopted in the Mercer County Opinion as it represented the most up-to date determination of Prior Round Obligations:

Prior Round Affordable Housing Obligations

1987-1999

New Jersey	85,964
Region 2	9,294
Morris County	4,975

³ There are also offsetting "rounding" differences in Garwood Borough (+1) and Union Township (-1) in Union County.

5.0 TRADITIONAL PRESENT NEED

Traditional Present Need, also referred to as "Indigenous Need" or "Rehabilitation Share", is that portion of the total housing inventory within each municipality that is represented by deficient housing occupied by low and moderate income households.

Revised Deficiency Measures - The prior rounds calculated Present Need as deficient housing units that were identified by surrogates that would indicate the likelihood that housing units are deficient. Six housing quality characteristics were utilized, along with structure age, and represented the full range of characteristics that was available from Census data to estimate deficient housing. These characteristics included the year the structure was built, persons per room, inadequate plumbing, inadequate kitchen facilities, inadequate heating, inadequate sewer services and inadequate water supply. These inadequacies were calculated at the sub-regional level due to constraints on data availability for municipalities and allocated to individual municipalities. The Round 2 methodology utilized the seven proxies then available from Census data and classified units as deficient when two or more deficiencies were identified in these surrogate measures.

Due to changes in data availability as well as improvements in municipal data, COAH's 2004 Round 3 methodology replaced the seven proxies from the prior round with three surrogates, two of which could be measured directly (inadequate plumbing facilities and inadequate kitchen facilities) as well as one for old and overcrowded units represented by housing units constructed before a given date with more than 1.01 persons per room. Under this updated approach, the identification of a unit with any one of the three proxies would be classified as deficient.

FSHC Present Need - Consistent with the Third Round approach utilized by COAH, Present Need is estimated by FSHC at the start of the Prospective Need period for the forthcoming round, which for Third Round calculations, would be as of July 1, 2015. Present Need, as previously discussed, represents that portion of the total housing inventory within each municipality that is represented by deficient housing occupied by low and moderate income households at the beginning of the Prospective Need period. FSHC estimates the number of deficient housing units in a

municipality using a process similar to that utilized by COAH to determine the Rehabilitation Share in the past. Although the number of surrogates, or proxies, used to identify deficient units has been reduced from seven to three, data is now available at the municipal level compared to the use of calculations in the prior round at the sub-regional level that were then allocated to municipalities.

The estimate by FSHC of the number of deficient units as of July 1, 2015 utilizes the three new surrogates for deficient units; a) lacking complete plumbing facilities; b) lacking complete kitchen facilities, and; c) overcrowding (more than 1.01 persons per room) in housing units at least 50 years old. As indicated by FSHC the, "Use of the year 1965 as a cut-off assures that all housing is at least 50 years old as of 2015" (FSHC, May 17, 2016, page 16). Steps are then taken to identify "unique deficient" units to avoid double counting units with multiple deficiencies. The proportion of unique deficient units occupied by LMI households is then calculated using 2010-2014 ACS PUMS data applied to COAH calculated income limits. The number of deficient housing units occupied by LMI households was estimated by FSHC to amount 82,655 units in 2000.

The regional LMI share as of 2012 (midpoint of the 2010-2014 ACS data) is then applied to each municipality's share of the regional unique deficient housing units to yield each municipality's 2012 Present Need. Since data was not then available for 2015, FSHC estimated the number of unique deficient units as of July 1, 2015 by projecting the 2000 to 2012 change to 2015. This projection results in the estimate of Present Need as the number of "deficient housing units occupied by LMI HH in 2015" being 60,015 LMI housing units, which is a decrease from the 82,655 unique deficient housing units estimated to be occupied by LMI households in 2000:

FSHC - New Jersey Present Need (Pre-Secondary Sources)

	<u>2000</u>	<u>2015</u>	Change
Unique Deficient LMI Housing Units	82,655	60,015	-22,640

The process that is used to estimate Present Need in 2000 and which is used to calculate the 2000-2015 increment, does not estimate the "old and overcrowded" housing units using the 50 year threshold used in the 2015 estimates, but uses the same 1965 cut-off date, rather than 1950 that would have been applied if this calculation had been prepared in 2000. By changing the definition

of “old” and crowded from 50 years for 2015 to 35 years for 2000, FSHC derives a higher Present Need estimate for 2000 than for 2015. The substantial decline in Present Need is impacted by the change to the 50 year definition used for “old and overcrowded” in the 2000 estimate, a category that accounts for two-thirds of all deficient units.

Econsult Present Need - In their May 16, 2016 report (New Jersey Affordable Housing Need and Obligations), Econsult provides a detailed discussion (pages 16-26) of the methodology employed in their estimation of Present Need. The information presented by Econsult indicates, in their opinion that Present Need, also known as “indigenous need” or “rehabilitation share”, “represents an estimate of the current stock of deficient housing within each municipality occupied by low and moderate income households”. Econsult further contends that Present Need is an estimate of current conditions that should be estimated at the start of the Prospective Need period, which for the third round calculations would be as of July 1, 2015. Unlike other components of need, the base unit of measurement is not households, but housing units. The Econsult report reviews the methodology employed in Rounds 1 and 2 for the calculation of Present Need as well as the elimination of re-allocated Present Need in COAJI’s Round 3 methodologies published in 2004, 2008 and 2014. The Round 3 change in the surrogates utilized and the elimination of the “re-allocated Present Need” (which were challenged but upheld by the Appellate Division), were acknowledged and adopted by Econsult in their use of the Round 3 approach for the calculation of Present Need.

Econsult employs a four step process to estimate Present Need at the start of the Prospective Need period in 2015. The specific procedures utilized by Econsult uses the three new surrogates for deficient units; a) lacking complete plumbing facilities; b) lacking complete kitchen facilities, and; c) overcrowding (more than 1.01 persons per room) in housing units at least 50 years old (1960). The data utilized in the preparation of these Present Need estimates is derived from the 2000 Census and from PUMS data from the 2009-2013 ACS, which provides an estimate for the 2011 mid-point. The efforts undertaken to assure the mutual exclusivity of the deficient units are described and estimates of “unique deficient” units are derived from 2009-2013 ACS data yielding a 2011 “mid-point” estimate. A similar process was undertaken by Econsult using 2000 Census data to estimate the LMI Present Need as of 2000. The Present Need estimates prepared by Econsult utilized the “old

and crowded" surrogate encompassing units that were at least 50 years old (constructed pre-1950 for the 2000 estimate and pre-1960 construction for the 2015 estimate).

The proportion of the unique deficient units occupied by LMI households was derived using the PUMS data from the 2009-13 ACS in comparison to the median household income information for the same time period from the 2009-2013 ACS data. This series of estimates and calculations yielded an estimate that, of the 90,690 unique deficient housing units identified in the 2011-2013 ACS data, approximately 67.8 percent, or 61,500 units, were unique deficient units occupied by LMI households as of 2011 (2009-2013).

In order to project the number of unique deficient housing units occupied by LMI households to 2015, a similar analysis was undertaken using PUMS data from the 2000 Census with the number of LMI households being derived directly from the 2000 Census. The proportion of the unique deficient units occupied by LMI households were estimated by Econsult using the household size and income levels (used in the Prospective Need calculation) and these county proportions were applied to the estimate of unique deficient units for each municipality, resulting in estimates of unique deficient LMI units. These procedures yielded an estimate of 52,386 unique deficient housing units occupied by LMI households in 2000. The increment in the number of unique deficient LMI housing units from 2000 (52,386) to 2011 (61,500) provided the basis for the projection of an increase to 65,034 LMI unique deficient units in 2015, representing the 2015 statewide Present Need.

The calculations of Present Need undertaken by Econsult at the beginning of the Prospective Need cycle (2015) indicates an increase in the proportion of unique deficient housing units occupied by LMI households, from 65.8 percent in 2000 to 67.8 percent in 2011, as well an increase in the total number of unique deficient housing units occupied by LMI households, from 52,386 in 2000 to 65,034 units in 2015:

Econsult - New Jersey Present Need (Pre-Secondary Sources)

	<u>2000</u>	<u>2015</u>	<u>Change</u>
Unique Deficient LMI Housing Units	52,386	65,034	12,648

Mercer County Opinion

Econsult's Present Need estimates, which utilize decennial Census data for crowded units that are at least 50 years old in 2000 (pre-1950) and 2015 (pre-1960) provide estimates for 2000 and for 2015. The FSHC calculation for 2000 uses the same 1965 cut-off that was utilized for the 2015 estimates, and thus reduces the "old" definition to include units that are 35 years old or older, rather than the "at least 50 years old" criteria applied in the 2015 estimate. This change in the definition impacts the projection of Present Need from the 2012 ACS data base to 2015. The truncated cut-off for FSHC's Present Need calculations impacts the Present Need projections for 2015. The Mercer County Opinion found that the Econsult approach more closely replicates the COAH's approach in the Second Round and that it was more appropriate to determine if a housing unit was "old" at the time it was being counted rather than if it will be "old" at a particular time in the future. (Mercer Opinion. Page 40)

2015 Present Need

	<u>2015</u>
New Jersey	65,034
Region 2	19,332
Morris County	1,750

6.0 PROSPECTIVE NEED

Prospective need is an estimate of the future anticipated need for affordable housing units which, by design, definition and prior practice is a future looking projection. The development of estimates of a future anticipated need for LMI housing is based upon reasonable expectations for population growth, the accompanying increases in households and determinations of the proportion of those households likely to be represented by LMI households. The incremental change in the estimate of LMI households within each housing region at the beginning and end of this ten year period represents the regional Prospective Need that is then allocated to the municipalities within each region. Increases in population are a primary determinant in the estimation of affordable housing needs during the 2015-2025 Prospective Need period. Population changes during the 2015-2025 Prospective Need period, unlike the growth that can be documented from 2000 to 2015, are dependent upon projections, forecasts and other estimates.

Population Projections

The Round 1 methodology used population projections from the New Jersey Department of Labor, now New Jersey Department of Labor and Workforce Development (NJDLWD) as set forth in their "Historical Migration Model". In Round 2, population estimates were derived by averaging the NJDLWD projections from the Historical Migration Model and the Economic-Demographic Model and then were further adjusted using a proprietary model from the Center for Urban Policy Research (CUPR). The Round 2 methodology cannot be replicated exactly since the Historical Migration Model now only provides statewide projections of total population and the CUPR model is not available.

NJDLWD Population Projections - At the time that the May 2016 reports were prepared, the most recent NJDLWD population projections had been prepared in 2014 (2012 base) and were based on incremental five-year projections from 2012 (for 2017, 2022, 2027 and 2032). These projections did not include estimates for the 2015 "beginning", and the 2025 "end" of the Third Round, and required interpolation to establish estimates for the desired time frame. In November

of 2016, new population projections were released by NJDLWD that replace and “supercede demographic projections previously prepared by this Department” and the prior (2012 base) projections have been removed from the Department’s web site. The new (2014 base) population projections follow the format of the prior projections and encompass a 20 year projection in five year intervals (for 2019, 2024, 2029 and 2034). Consistent with prior (2012 series). Statewide projections are provided for four projection models (Economic-Demographic, Zero Migration, Historical Migration and Linear Projection models), but detailed projections by County and age cohorts are published only for the “preferred” Economic-Demographic model. The new NJDLWD population projections (2014 base) reveal a minor downward adjustment in the interpolated 2015-2025 population projections (392 persons) in the Economic Demographic model but a sizeable increase (11,244 persons) in the Historical Migration model. Although the most up-to-date population projections were not included in the May 2016 FSHC and Econsult reports, this updated information shall be incorporated in the calculation of Prospective Need.

The NJDLWD population projections are as of July 1 and reflect only “total” population without allocations for group quarters or household population. The corresponding projections by NJDLWD using the Historical Migration Model is now provided only on a statewide basis.

FSHC Population Projections - The May 17, 2016 report by FSHC relies upon the population projections prepared by NJDLWD (2012 base) using only the Economic-Demographic Model. FSHC’s use of the Economic-Demographic Model projections deviates from the Round 1 methodology (Historical Migration Model) and deviates from the Round 2 methodology (averaged Historical Migration and Economic-Demographic Model). As indicated on page 27 of FSHC’s May 17, 2016 report, whereas the 2015 population was based upon the July 1, 2015 population estimates published by the U.S. Census Bureau, the 2025 population is “projected”. FSHC’s estimate of the state’s population growth from 2015 to 2025 does not use the NJDLWD projections for 2015, but utilizes the 2015 Census estimate of 8,958,013 persons and interpolates the NJDLWD 2022 and 2027 projections to derive a population projection of 9,377,040 persons as of July 1, 2025. During this ten-year interval, FSHC estimates that the state’s total population will increase by 419,037 persons or approximately 41,904 persons annually ($9,377,040 - 8,958,013 = 419,037$)/10 = 41,904). The annual population growth indicated by the Economic-Demographic Model between 2015 to

2025 (41,904 persons per year) is 1.11 times the annual population growth of 37,754 persons per year between the 2000 and 2010 Census and is 1.32 times the annual population growth of 31,642 persons per year between the 2010 Census to 2015 Census Estimate:

New Jersey Population Trends

	Census <u>2000</u>	Change <u>2000-10</u>	Census <u>2010</u>	Change <u>2010-15</u>	Census Est <u>2015</u>
New Jersey	8,414,350	377,544	8,791,894	166,119	8,958,013
Annual		37,754		31,642	
Percent		0.449		0.360	

Econsult Population Projections - The development of population projections for the 2015-2025 Prospective Need period are set forth on pages 29 through 33 of Econsult's May 16, 2016 "New Jersey Affordable Housing Need and Obligations" report. For the Third Round (2015-2025) projections, Econsult utilizes the Round 2 methodology where the Historical Migration and Economic Demographic Models are combined and averaged, notwithstanding the inavailability of detailed county and age group projections for the Historical Migration Model. As discussed by Econsult on page 30, the primary distinction between these two projection models is in the migration assumptions, and notes that NJDLWD states that "(T)he projected population from these two models may be used as a range for possible populations change in the future". Econsult further notes that NJDLWD's publication entitled "Methodology-The Projections Models", indicates that the assumptions regarding population base, fertility, mobility, cohort aging, and the migration of persons 65 years and older are identical in the Economic-Demographic and Historical Migration Models. Unlike FSHC, Econsult uses the NJDLWD population projections for both the 2015 and 2025 population estimates. Interpolating the 2012 and 2017 data and the 2022 and 2027 data, Econsult derives population estimates for New Jersey for 2015 and 2025, respectively. A comparison of the 2015 estimates and the 2025 projections from NJDLWD's Historical Migration and Economic-Demographic Models are summarized in the following tabulation:

NJDLWD Statewide Population Projections

<u>Model</u>	<u>2015</u>	<u>2025</u>	<u>2015-2025 Growth</u>
Historical Migration	8,963,960	9,170,000	206,040
Economic Demographic	8,974,040	9,377,040	403,000
Averaged	8,969,000	9,273,520	304,520

Econsult's "averaged" 2015 statewide population estimate of 8,969,000 persons is 10,987 persons higher than the Census Bureau's 2015 estimate of 8,958,013 persons, while the 2015 estimate (interpolation) from the Economic-Demographic Model of 8,974,040 persons is 16,027 persons higher than the 2015 Census estimate.

In addition to the deviations between the interpolated 2015 populations, there is also a difference in the amount of population growth projected between 2010 and 2015 by the Historical Migration and Economic Demographic Models. During the period from the 2010 Census (April 1, 2010) and the Census Bureau's 2015 (July 1, 2015) Population Estimate for New Jersey, the State's population increased from 8,791,894 persons to 8,958,013 persons, indicating a gain of 166,119 persons during this 5.25 year period, or approximately 31,642 persons annually. The Census Bureau's July 1, 2015 population estimate for New Jersey (8,958,013) is closer to the population projected with the Historical Migration Model (8,963,960) than the Economic-Demographic projection (8,974,040), while the annual population growth between the 2010 Census and the July 1, 2015 Census population estimate, which amounts to 31,642 persons is most similar to the "averaged" population growth of 30,452 persons annually. Nevertheless, both models yield 2015 population estimates (8,963,960 to 8,974,040) that are above the 2015 Census estimate of 8,958,013 persons.

2015 Population Comparisons

	<u>Census</u> <u>2010</u>	<u>Census</u> <u>Est 2015</u>	<u>NJDLWD</u> <u>2015</u>	<u>2015</u> <u>Deviation</u>
Historical Migration	8,791,894	8,958,013	8,963,960	+ 5,947
Economic Demographic	8,791,894	8,958,013	8,974,040	+16,027
Averaged	8,791,894	8,958,013	8,969,000	+10,987

Econsult's choice of the Round 2 methodology, with the use of an "average" of the Historical Migration and Economic Demographic projections, is reported to be based on the reliability of the "averaged" projections rather than either model individually. Using the NJDLWD biannual projections that have been published from 2000 through 2012 with comparisons to Census populations and Census estimates, Econsult reports that the twelve time periods analyzed indicate an average annual Census population increase of 0.39 percent compared the average annual

increments of 0.58 percent with the Economic Demographic Model and 0.62 percent with the Historical Migration Model and 0.60 percent annually for the “averaged” projections. During the 2000-2012 NJDLWD projections (base year), both models have generally exceeded the Census population estimates.

Population Projection Comparisons - The projection of population is a critical component in the estimation of future levels of household population, the number and increase of occupied households and ultimately the increase in LMI households. Obviously, the projection model will influence the estimation of the number and growth of LMI households. FSHC has selected a projection based upon the only (Economic Demographic) model that provides detailed information by county and age groups. Econsult, on the other hand, uses the Round 2 methodology that averages the Historical Migration and the Economic- Demographic Models with the stated objective of diminishing the projection variations ascribed to a single data source. Econsult’s use of two measures of population growth is consistent with the Round 2 Methodology as well as the principles set forth with in *AMG Realty* that were cited by Judge Serpentelli:

With regard to internal checks and balances, two examples will suffice. The projection of population to determine prospective need averages two population models, one of which is considered conservative and one liberal. The allocation factors contain numerous checks and balances. The two employment factors in the prospective need formula tend to check each other because one reflects past trend and the other, future projections.

[AMG Realty Co v Warren Tp, 207 N.J. Super. 388, p453-454]

The population projections for the Prospective Need period used by FSHC and Econsult are the same at the time of the 2010 Census, slightly different for 2015 estimates with a much larger deviation for the 2025 projections:

	<u>New Jersey Total Population</u>			
	Census	Estimate	Projection	Change
	<u>2010</u>	<u>2015</u>	<u>2025</u>	<u>2015-25</u>
FSHC	8,791,894	8,958,013	9,377,040	419,027
Econsult	8,791,894	8,969,000	9,273,520	304,520

Mercer County Opinion - During the course of the Mercer trial, new population data was released and by the end of the trial, almost two years of the 2015-2025 Prospective Need period had elapsed. New population estimates were published by the Bureau of the Census and updated American Community Survey (ACS) data became available. Importantly, updated population projections by the New Jersey Department of Labor and Workforce Development (NJDLWD), which are the foundation for the estimates of population and housing growth, were released and replaced the projections that were used in the FSHC and Econsult reports. The newest population estimates generally reflected a decreased rate of population growth and were acknowledged by both FSHC and Econsult. Although the NJDLWD population projections were updated and superceded the version used in the FSHC and Econsult reports, neither party revised their projections to include this most up-to-date data. The Mercer County Opinion adopts the use of the most recent (2014 base) population projections produced by NJDLWD with the averaging of the Historical Migration and Economic Demographic models as proposed by Econsult and used by COAH in the Second Round. FSHC's intermixing of Census population for the beginning of the projection and the NJDLWD data for the end of the projection was rejected by the court. The averaging of NJDLWD's Historical Migration and Economic Demographic models was found to better reflect recent historical data particularly in view of the uncertainties inherent in all projections. Using the updated NJDLWD projections (2014 base) that became available prior to the Mercer trial, the averaged H-M and E-D population projections resulted in an estimated statewide population growth of 359,010 persons between 2015 and 2025:

Updated New Jersey Total Population Estimates (2014-Series)

	2015	2025	<u>Growth</u>
Averaged EDM & HMM	8,974,810	9,433,820	359,010

Household Population

The projection of total population is the first step in the process leading to the estimation of the increase in LMI households. The next step involves the preparation of the estimated household population and is derived by deducting the number of persons residing in group quarters, which includes persons in correctional facilities, college dormitories, military installations, nursing homes, mental institutions and other "group" facilities. New Jersey's entire population is classified as either living in households or in group quarters and the reduction of total population by the number, or proportion, of group quarters population will yield household population.

FSHC Household Population Estimates - The methodology employed by FSHC adjusts the total population through the deduction of Group Quarters population to yield an estimate of household population. In FSHC's population estimates, a group quarters population of 186,167 persons was estimated for 2015 and represented 2.08 percent of the total population. For 2025, FSHC estimates a group quarters population of 201,122 persons, or approximately 2.14 percent of the total estimated population. By deducting the group quarters population from the total population, household populations of 8,771,846 persons and 9,175,818 persons were derived for 2015 and 2025, respectively, and indicate a 2015-2025 household population increment of 404,072 persons:

FSHC Total and Household Population 2015 and 2025

	<u>2015</u>	<u>2025</u>	<u>Change</u>
Total Population	8,958,013	9,377,040	419,027
In Group Quarters	<u>186,167</u>	<u>201,122</u>	<u>14,955</u>
In Households	8,771,846	9,175,918	404,072

Econsult Household Population Estimates - The methodology employed by Econsult also adjusts the total population through the deduction of Group Quarters population to yield an estimate of household population. Econsult calculates the proportion of persons in group quarters using the 2010 Census and 2014 ACS data by county and age group, and projects these proportions to 2015 and 2025. For 2015, Econsult estimates 2.09 percent of the total population (187,770 persons) were in group quarters and that this group quarters population would be estimated to account for 2.13 percent (197,750 persons) of the total population in 2025. Deducting the group quarters population,

household populations of 8,781,230 persons and 9,075,770 persons were derived for 2015 and 2025, respectively, and indicate a 2015-2025 household population increment of 294,540 persons:

Econsult Total and Household Population 2015 and 2025

Econsult	<u>2015</u>	<u>2025</u>	<u>Change</u>
Total Population	8,969,000	9,273,520	304,520
In Group Quarters	<u>187,770</u>	<u>197,750</u>	<u>9,980</u>
In Households	8,781,230	9,075,770	294,540

Mercer County Opinion - The updated NJDLWD population projections (2014 base) were not used by either FSHC or Econsult in the reports submitted in Mercer County. The estimated of the number of person in households were derived by both FSHC and Econsult by deducting the estimated number of residents in group quarters. There was not a significant methodological dispute in this calculation insofar as FSHC and Econsult estimated similar proportions of group quarters population. Group quarters population was estimated to represent 2.08 percent (FSHC) to 2.09 percent (Econsult) of total population in 2015 and from 2.13 percent (Econsult) to 2.14 percent (FSHC) of total population in 2025. Due to the negligible differences and in order to maintain consistency with the prior step, the court accepted Econsult' group quarters estimates and derived the following statewide estimates of household population:

New Jersey Population in Households 2015-2025

	<u>Population</u>	<u>In Group Qtrs.</u>	<u>Pop. in HH</u>
2025	9,333,820	-196,544	9,137,276
2015	8,974,810	-186,339	8,798,471
HH Pop Growth			348,805

Headship Rates and Households

The estimation of the increases in households is derived by FSHC and Econsult using projections of total population growth, adjusted for non-household (group quarters) population, and converted to households (occupied housing units) through the use of “headship rates”. The headship rate represents the probability that a person is a head of a household, and is the fractional representation of the commonly used “persons per household” measure utilized by the Bureau of the Census. For example, a group of 100 persons residing in 40 households would yield an average of 2.50 persons per household ($100 / 40 = 2.50$) and reflect a headship rate (probability) of 0.40 ($40 / 100 = 0.40$).

Prior Round Headship Methodology - In COAH’s Round 2 methodology, the changes in actual headship rates between the 1980 Census and 1990 Census were calculated and future headship rates were projected to change at one-half the rate observed between 1980 and 1990. The most recent Census data contained in the 2000 and 2010 Census reveals a virtually unchanged headship rate during the most recent decennial census interval. In this regard, the headship rate was 0.3728 in 2000 and 0.3735 in 2010, indicating a 10 year increment of 0.0007. Using the Round 2 methodology, one-half of this 10-year increment would be 0.00035 and result in a 5-year projection (2015) of 0.373635 and a 10-year (2020) projection of 0.37385. Extended to 2025, a headship rate of 0.374025 would be indicated:

Projected Headship Rates - Round 2 Methodology

	<u>Census</u> <u>2000</u>	<u>Census</u> <u>2010</u>	<u>Projected</u> <u>2015</u>	<u>Projected</u> <u>2020</u>	<u>Projected</u> <u>2025</u>
Headship Rate	0.3728	0.3735	0.373675	0.373850	0.374025
Persons/Household	2.6820	2.6771	2.6761	2.6749	2.6736

The changes in overall headship rates and average household size that would be derived using the Round 2 methodology applied to the two most recent decennial Census, would indicate a nominal decrease in the average household size in New Jersey from 2.6771 persons per household

at the time of the 2010 Census to a projection of 2.6736 persons per household in 2025. The corresponding headship rates would amount to 0.3735 in 2010 and 0.3740 in 2025.

FSHC Headship Rates - FSHC has prepared estimates and projections of headship rates that are used to derive estimates of the number of current (2015) and future (2025) households using the data from the 2010 Census and the most recent (2014 ACS One Year) survey data. The prior projections prepared by FSHC in July 2015 used the 2013 ACS (One-Year) survey data and updated this source to the 2014 ACS (One-Year) survey data in the more recent March 24, 2016 and May 17, 2016 reports. The use of the 2010 Census and ACS survey data has disclosed certain inconsistencies that have been acknowledged by FSHC. In this regard, the ACS data for both 2013 and 2014 report fewer occupied households in New Jersey than the number reported by the 2010 Census. According to the ACS surveys, the number of occupied households in New Jersey decreased from 3,214,360 households at the time of the 2010 Census to 3,176,139 occupied households as of July 1, 2013 and 3,194,844 occupied households as of July 1, 2014, indicating that there were 38,221 fewer households in 2013 than at the 2010 Census and 18,705 fewer households in 2014 than at the 2010 Census.

Recognizing these disparities, FSHC engaged Daniel T. McCue, a mathematician with the Joint Center for Housing Studies of Harvard University, to examine the differences in the Census and ACS data. Mr. McCue prepared and submitted reports dated January 29, 2016, March 24, 2016, April 8, 2016 and May 17, 2016. The January and April reports specifically addressed the differences in the Census and ACS data and acknowledged that the lower number of households reported in the ACS data is a problem that is not limited to New Jersey, but occurs throughout the ACS data nationwide. Mr. McCue reports that the Census Bureau has not fully resolved why there are differences in the household counts and that a comparison of 2010 ACS (One-Year) data to the 2010 Census, discloses a difference of 2.1 million households nationwide. After reviewing and comparing the Census and ACS data, and in view of the small base and high margins of error in the ACS data, Mr. McCue questions "using two incomparable data sets" (McCue, January 29, 2016, Page 9).

Despite these shortcomings, the methodology utilized by FSHC to estimate and project headship rates for the projection of occupied households, does not abandon the use of ACS data, but

creates a procedure to “calibrate” the 2014 ACS (One Year) survey data by comparing the 2010 Census and 2010 ACS data in order to create a ratio that is then used to adjust (increase) the 2014 ACS households to yield an estimate that would represent 2014 Census households. The adjusted number of 2014 households is then projected to yield an estimated number of 2015 households.

The final step is the projection of the 2014 headship rates by county and age group to 2015 and then using a flat headship rate “held constant when projected to 2025”. Although FSICC indicates that headship rates are held constant by county and age group, variations in the growth rates by county and by age group result in an overall increase in headship rates and a decline in average household size between 2015 and 2025:

FSHC Population, Headship Rate and Household Projections

	<u>2000</u>	<u>2015</u>	<u>2025</u>
<u>Total Population</u>	8,414,350	8,958,013	9,377,040
Group Quarters	194,821	186,167	201,122
In Households	8,219,519	8,771,846	9,175,918
<u>Occupied Households</u>	3,064,645	3,255,437	3,460,112
Headship Rate	0.3728	0.3711	0.3771
Persons Per Household	2.6820	2.6945	2.6519
<u>Increase</u>			
Household Population	---	543,663	404,027
Occupied Households	---	190,792	204,675
Headship Rate	---	0.3509	0.5065
Persons Per Household	----	2.8495	1.9742

The population and housing changes between 2000-2015 and the 2015-2025 Prospective Need period are significantly different in terms of the demographics of the incremental populations. Between 2000 and 2015, the added population was represented by households that were substantially larger than the 2000 base population (2.8495 persons vs. 2.68320 persons), but are much smaller in the 2015-2025 projection, with an incremental (2015-2025) household size approximately two-thirds (1.9742 persons vs. 2.8621 persons) of that observed during the prior 15 years. The annual household growth over the past 15 years (2000-2015) amounted to 12,501 households per year compared to FSHC’s 2015-2025 projection of 204,675 households, or 20,468 households annually.

Econsult Headship Rates - The headship rates used by Econsult in their May 16, 2016 “Need and Obligations” report follow the Round 2 methodology where one-half of the change measured in the prior period is used to project the future. This projection is not a single statewide rate, but is applied across 8 age-groups in 21 counties for a total of 168 individualized rates. The specific methodology employed by Econsult recognizes the differences in the household counts of the Census and ACS survey data and adopts the approach used by FSHC in re-basing the ACS estimates to the Census base, adjusting 2010 ACS data to housing data from the 2010 Census. The projection of headship rate trends also utilizes the actual headship rates from the 2000 Census (0.3728) and 2010 Census (0.3735). The increase in headship rates (decline in household size) between 2000 and 2010 is then applied to the re-based ACS data to yield an estimated headship rate of 0.3699 for 2014. The re-based data and re-calibrated headship rate is then projected to increase to 37.04 percent in 2015 and to 37.45 percent in 2025. These adjusted headship rates yield an estimate of 3,252,210 households in 2015 and a projection of 3,398,450 households in 2025:

Econsult Population, Headship Rate and Household Projections

	<u>2000</u>	<u>2015</u>	<u>2025</u>
<u>Total Population</u>	8,414,350	8,969,000	9,273,520
Group Quarters	194,821	187,770	197,750
In Households	8,219,519	8,781,230	9,075,770
<u>Occupied Households</u>	3,064,645	3,252,210	3,398,450
Headship Rate	0.3728	0.3704	0.3745
Persons Per Household	2.6820	2.7001	2.6706
<u>Increase</u>			
Household Population	-----	561,711	294,540
Occupied Households	-----	187,565	146,240
Headship Rate	-----	0.3339	0.4965
Persons Per Household	-----	2.9948	2.0141

The methodology employed by Econsult estimates an increase of 187,565 households between 2000 and 2015 (12,299 households/year) and projects an increase of 146,240 households between 2015 and 2025 (14,624 households/year). The average household size is projected to decrease from 2.7001 persons in 2015 to 2.6706 in 2025. The incremental increase between 2015 and 2025 amounts to 294,540 household residents and 146,240 households, indicating a 10 year

(2015-2025) increment of 2.0141 persons per household and a headship increment of 0.4965.

The population and housing changes estimated between the 2000 and 2015 and the 2015-2025 projection for the Prospective Need period are different in terms of the demographics of the incremental populations. Between 2000 and 2015, the added population was represented by household populations significantly larger (2.9948 persons) than the 2000 base population (2.6820 persons) but are substantially smaller in the 2015-2025 projection, with an incremental household size (2015-2025) approximately two-thirds (2.0141 persons vs 2.9948 persons) of that observed during the prior 15 years.

Mercer County Opinion - Whereas the concept of headship rates is relatively straightforward, the determination of the headship rates to utilize in the affordable housing model involve a morass of conflicting approaches. COAH used different approaches in the prior rounds and the precise manner of COAH's calculations was subject to certain ambiguities. Econsult followed COAH's Second Round rules where headship rates were projected at one-half the rate observed between 1980 and 1990, although it was not clear whether COAH projected this trend from 1990 or from the beginning of the Second Round in 1993.

In an unusual departure from the methodology used in the prior rounds, FSHC did not project headship rates at one-half the rate observed in the prior period. This deviation was said to be the result of: 1) the opinion of "national experts" and; 2) a more conservative projection of household growth. FSHC's deviation from the methodology established by COAH in the Second Round and the use of a constant headship rate was reported by FSHC to be based upon the mistaken belief that "trend" projections were no longer supported by "national experts". The second rationale for the deviation from COAH's Second Round methodology ... that it yields a more conservative projection of household growth... does not appear to be consistent with data and the information presented by Dr. Kinsey (slide 240, February 10, 2017), which indicates that the use of the headship rate trend in COAH's Second Round methodology would actually decrease and not increase the projected number of households.

The court adopted the trend line approach that was utilized by Econsult and which more closely followed COAH's procedures in the Second Round. The use of a trend that is one-half of

the rate observed in the prior period was also determined to be appropriate in consideration of the unique economic circumstances that existed in the prior (2000-2015) period. The projection of the trend line should begin from the beginning of the Prospective Need period insofar as data is now available from the Census (re-calibrated ACS) for this starting point. The Mercer County Opinion found that these "trended" headship rates, which should be applied to the household population estimates based on the updated and averaged NJDLWD population estimates, would yield the following estimate of 2015-2025 household growth:

New Jersey Total Households 2015-2025

	<u>Headship Rate</u>	<u>Population In Households</u>	<u>Total Households</u>
2025	37.63	9,137,276	3,438,417
2015	37.14	8,788,471	3,261,626
Total Household Growth			176,791

(Mercer Opinion, page 65)

7.0 LOW AND MODERATE INCOME HOUSEHOLDS

The preparation of estimates of the proportion of the total number of occupied households that are represented by low and moderate income households is another important factor in the determination of affordable housing needs and is the next successive step after the estimation of the current, and the projection of the future, number of occupied households.

Definition

The FHA furnishes definitions for low and moderate income housing that provide the basis for defining lower income households. According to the FHA, low income households are "households with a gross household income equal to 50% or less of the median gross household income for households of the same size within the housing region in which the housing is located" [N.J.S.A. 52:27D-304 (c)], while moderate income households are "households with a gross household income equal to or more than 50% but less than 80% of the median gross household income for households of the same size within the housing region in which the housing is located" [N.J.S.A. 52:27D-304 (d)]. Combined, these definitions would encompass all households with incomes less than 80% of the median gross household income for households of the same size within the housing region in which the housing is located.

Determining the Proportion of LMI Households

The measurement and determination of the proportion of the total households with incomes below 80 percent of median gross household income may be derived from Census and ACS data and are established at the beginning of the Prospective Need period. The quantification of the number of households with incomes below 80 percent of the regional median income in the Prior Round was calculated using proportions for eight age groups in each of the State's 21 counties.

FSHC LMI Households - The process undertaken by FSHC to estimate the proportion of total 2015 households that are LMI households utilizes 2014 ACS income data by age group and county that are updated to 2015 using a Consumer Price Index adjustment. The specific CPI index

(US, Region, Urban Consumers, Wage Earners, All Items, Housing, etc) used for this adjustment is not identified. The projection of total households by county and age group are then sorted by regional income limits using HUD 2015 income limits by "family size". The proportion of total households that are LMI households are not determined using the proportion of households reflected in the ACS data with household incomes below 80 percent of the median by household size, but in comparison to HUD "county income limits by family size". Using this procedure, FSHC estimated that 1,348,144 of the 3,255,437 total households in 2015, or 41.41 percent, were LMI households.

The process for estimating the proportion of total households estimated to be LMI households in 2025 utilizes the 2014 ACS income data by county and age group updated to 2015 and then projected by the following method, "(T)his analysis projects that on a statewide basis 43.0 percent of New Jersey HH will qualify as LMI, under prior round methodology, in 2025". The results of FSHC's income analysis yields the following estimates of the proportion, and concomitantly, the number of LMI households as of 2015 and 2025.

FSHC Low and Moderate Income Household Projections

	<u>2015</u>	<u>2025</u>
<u>Total Population</u>	8,958,013	9,377,040
Group Quarters	186,167	201,122
In Households	8,771,846	9,175,918
<u>Occupied Households</u>	3,255,437	3,460,112
Percent LMI	41.41	42.96
LMI Households	1,348,144	1,486,615
<u>Increase</u>		
Occupied Households	-----	204,675
LMI Households	-----	138,471
Percent LMI/Total	-----	67.65

The proportions of LMI households estimated by FSHC for 1999 (41.16 percent) and for 2015 (41.41 percent) indicate a 16 year increment of 0.25 percent, or 0.0156 percent annually compared to an increase of 1.55 percent between 2015 and 2025, or 0.155 annually, which is 10 times the annual increment observed between 1999 and 2015. This significant increase in the LMI

proportion between 2015 and 2025 results in LMI households accounting for over two-thirds (67.65 percent) of New Jersey's total household growth between 2015 and 2025. The data used by FSIIC to estimate the proportions of LMI households combines data derived from different sources (ACS for household income and COAH/HUD for income thresholds) that are compiled by different entities for different purposes. This intermixing of data was a concern that was acknowledged by FSHC in their October 28, 2015 response, which stated that:

"Because income qualification of LMI HH's under the Prior Round methodology is not based on actual median income of New Jersey households (3.2 million), but rather is based on HUD's estimate of the median income of New Jersey families (2.2 million), with adjustments by family size, it is not necessarily the case that exactly 40% of households will be at less than 80 % of median family income" (Page10, emphasis added).

The intermixing of non-comparable data can have a significant impact on the determination of the proportion and number of low and moderate income households. Whereas an increase in the proportion of LMI households from 41 to 43 percent may appear to represent a minimal change, in the context of the State's 3.3 million households, a 2 percent increase in the LMI proportion represents an increase of 66,000 LMI households. The choice of the data used by FSHC in their determination of the proportion and number of LMI households contributes to their forecasted inclusion of more than two-thirds of the 2015-2025 increase in total households as being represented by LMI households. COAH had noted in the last iteration of the unadopted Third Round rules that the proportion of total household growth represented by LMI households will be approximately 40 percent of the total household growth:

"Thus to the degree that age cohorts are differently composed and growing differently, the low- and moderate-income component of the population will also change as it ages into the future. Nonetheless, almost by definition about 40 percent (40.622%) of household growth will be comprised of low- and moderate-income household growth". (46 N.J.R 953) Appendix A

COAH's expectations were significantly different than the 67.65 percent LMI share projected by FSHC between 2015 and 2025. If, for example, FSHC had utilized the same LMI ratio that it had determined for 2015 (41.41 percent) the increase in LMI households from 2015 to 2025 would have

amounted 84,688 LMI households, as opposed to 138,471 LMI households, and the LMI proportion of the total household increase would be 41.41 percent, rather than 67.65 percent:

**FSHC LMI 2015-2025 Household Projections
Using Constant 2015 LMI Ratio**

	<u>2015</u>	<u>2025</u>
<u>Occupied Households</u>	3,255,437	3,460,112
Percent LMI	41.41	41.41
LMI Households	1,348,144	1,432,832
 <u>Increase</u>		
Occupied Households	----	204,675
LMI Households	----	84,688
Percent LMI/Total	----	41.41

By increasing the proportion of all new households that would be LMI households, FSHC projects that more than two of every three new households in New Jersey over the next 10 years (2015-2025) will be LMI households.

The proportion of total households estimated by FSHC to be LMI households in Region 2 reflect significant variations by County, with a regional average of LMI households that represents more than two-thirds of all new households. According to FSHC's calculations, the total number of households in Region 2 will increase by 42,212 total households between 2015 and 2025, of which 28,629 households, or 66.97 percent, will be LMI households:

FSHC Prospective Need Total and LMI Household Growth 2015-2025 - Region 2

<u>County</u>	<u>Total Household Increase</u>	<u>LMI Household Increase</u>	<u>Percent LMI Households</u>
Essex County	12,435	9,840	79.13
Morris County	15,973	9,490	59.41
Union County	11,971	6,912	49.39
Warren County	1,833	2,027	110.58
Region 2	42,212	28,269	66.97
 New Jersey	204,675	138,471	67.65

Econsult LMI Households - A detailed review of incomes is presented in support of Econsult's decision to calculate income directly from Census and ACS data for each household size and region rather than using COAH/HUD income thresholds. Differences are noted throughout the range of household sizes, but particularly for 1-persons households, where the HUD/COAH incomes were nearly 1.7 times the actual reported incomes. Using ACS income data projected to 2015 and 2025, Econsult estimates that 39.92 percent of all households in 2015 were LMI households and that this proportion would increase to 39.96 percent in 2025. During the 10 year interval, total households are projected to increase by 146,240 households, of which 40.71 percent, would be LMI households:

Econsult's 2015-2025 Household Projections
Total and LMI Households

	<u>2015</u>	<u>2025</u>
<u>Household Population</u>	8,781,280	9,075,767
<u>Occupied Households</u>	3,252,210	3,398,450
Headship Rate	0.3704	0.3745
Persons Per Household	2.7001	2.6706
<u>LMI Households</u>	1,298,400	1,357,940
LMI / Total Households -%	39.92	39.96
<u>Increase 2015-2025</u>		
Occupied Households	---	146,240
LMI Households	---	59,540
LMI / Total Households -%	---	40.71

Affordable Need Comparisons - The May 17, 2016 report prepared by FSHC and the May 16, 2016 report by Econsult yield distinctly different measures of affordable housing needs for the 2015-2025 Prospective Need period. The estimates of the increases in total households are influenced by a variety of factors including the projection of total and household population, changes in headship rates and the resulting estimates of the accompanying increases in the number of total households. Estimates of the proportion of LMI households is another factor that directly, and significantly, impacts the estimate of Prospective Need households, as summarized in the following comparisons:

2015-2025 Prospective Need Comparisons

	<u>FSHC</u>	<u>Econsult</u>
Household Population Growth	404,072	294,540
Headship Rate Increment	0.5063	0.4965
Household Growth	204,675	146,240
LMI Proportion Increment	67.65	40.71
LMI Household Growth	138,471	59,540

The differences in the proportion of the increase in total households estimated to be LMI households is largely attributable to the different ways that they are calculated by Econsult and FSHC. Econsult, as previously discussed uses the actual median incomes reported in the Census (ACS) data while FSHC uses the ACS medians in relationship the income limits used for qualifying for affordable housing as determined by the COAH and/or HUD “income grids”. These income grids do not use actual median incomes, but use a process where the income for a 4-person household is estimated from family incomes and then is assigned to smaller and larger families based upon household size. This income grid assumes that the income of 3-person households are 90 percent of the income of a 4-person household while 2-person households are allocated 80 percent of the income of 4-person households and a 1-person household is assumed to have 70 percent of the income of a 4-person household.

Mercer County Opinion - A primary distinction between the competing methodologies in their calculation of the increase in the number of LMI households between 2015 and 2025 is the use of actual median incomes advocated by Econsult and the use of the HUD-derived income qualification grid used by FSHC. While the precise mathematical calculations advanced by Econsult do produce approximate 40 percent LMI ratios consistent with mathematical definition, they do not utilize the income qualification grid relied upon by COAH in the Prior Rounds. The FHA references HUD standards and COAH repeatedly made the unambiguous policy decision to use the same income grid for determining affordable housing need as it used for income qualification. Although the court agreed with the use of the income grid for determining LMI Household Ratios that was advanced by FSHC, it did not endorse the projection of those ratios. COAH’s Second Round rules do not fully detail the calculations performed to determine LMI ratios, however, the unadopted Third Round rules clarify COAH’s position that, despite changes in the composition of the LMI

population, the methodology should produce an overall proportion of approximately 40 percent. COAH's LMI ratios were calculated at the beginning of the Prospective Need period and held constant for that period. Further insight into COAH's support of a constant LMI ratio was provided by several excerpts from Dr. Burchell that stated almost by definition, about 40 percent of household growth will be comprised of LMI households. The projection of LMI ratios by FSHC produced a statewide LMI household growth rate of 67.65 percent during the Prospective Need Period.

The court found that COAH calculated the LMI ratio at the beginning of the Prospective Need period in Prior Rounds and applied those ratios at the end of the period. In this step of the methodology, the court found that neither of the experts approach was satisfactory and adopted a modification of the FSHC approach, using the updated grid, but utilizing constant 2015 LMI ratios. The 2015 statewide LMI ratio of 41.41 percent yielded a 2015-2025 LMI household growth of 73,209 housing units:

Statewide LMI Household Growth 2015 - 2025

LMI HH Ratio	41.41 %
Total Household Growth	176,791
LMI Household Growth	73,209

(Mercer Opinion, Page 85-86)

Reallocation for Age Distribution of Households

The total and LMI household growth projected for 2015-25 by both FSHC and Econsult revealed a decline in "working-age" households. In the Second Round, the working-age households were reallocated to regions with prior job growth. Because no growth of working-age households was projected by either FSHC or Econsult, there was no reallocation of LMI households and the court skipped this step.

Adjustment for Older LMI Households with Significant Assets

Econsult included a "significant housing assets" test as an adjustment to the projected increase in LMI households. The UHAC regulations contain a real estate asset test that would

disqualify otherwise income eligible households and COAH included an asset test in each iteration of the Third Round Rules. The court found that while the asset test would constitute a reasonable revision to the methodology, it represents a policy decision that was neither fully vetted nor specifically approved by the Appellate Division. The asset test and other accompanying adjustments to the methodology represent policy changes better left administrative rule making and were not adopted in the Mercer County Opinion.

Aggregate Regional Need

With the adjustments made by the court, the gross Prospective Needs for the State and Region diverged from the results of both experts:

New Jersey and Region 2 Gross Prospective Need 2015 - 2025

	<u>Econsult</u>	<u>FSHC</u>	<u>Opinion</u>
New Jersey	54,140 ⁴	138,471	73,209
Region 2	12,353	28,269	15,682

⁴ Econsult reduced the projected (2015-25) increase in the number of LMI households (59,540) by 5,400 LMI households with significant housing assets, to yield a regional prospective need for 54,140 households. (Econsult, May 16, 2016, pages 51-55)

READING MORRIS COUNTY

APPENDIX 1

7-17-18

Report and Recommendations - Region 2 Summary of Municipal Affordable Housing Needs

Municipality	County	Region	Prior Round Obligation, 1987-1999 (units)	Present Need, 2015 (units)	Calculated GAP Prospective Need, 1999-2015 (units)	Calculated Prospective Need, Pre 20% Cap, 2015-2025 (units)	20 Percent Cap Reduction	Cumulative Prospective Need, 1999-2025 (post 20% cap and pre 1,000-unit cap) (units)
Boonton Town	Morris	2	11	43	109	93	0	201
Boonton Township	Morris	2	20	25	45	68	0	113
Butler Borough	Morris	2	16	35	75	65	0	140
Chatham Borough	Morris	2	77	0	119	145	0	264
Chatham Township	Morris	2	83	59	169	204	0	372
Chester Borough	Morris	2	16	11	54	57	0	111
Chester Township	Morris	2	32	29	88	93	0	181
Denville Township	Morris	2	325	46	473	375	0	849
Dover Town	Morris	2	6	305	79	66	0	145
East Hanover Township	Morris	2	262	37	383	392	0	776
Florham Park Borough	Morris	2	326	73	289	271	0	560
Hanover Township	Morris	2	356	29	486	411	0	897
Harding Township	Morris	2	83	0	74	103	0	176
Jefferson Township	Morris	2	69	70	101	190	0	290
Kinnelon Borough	Morris	2	73	0	82	81	0	163
Lincoln Park Borough	Morris	2	74	11	130	97	0	227
Long Hill Township	Morris	2	62	14	82	94	0	176
Madison Borough	Morris	2	86	6	244	256	0	300
Mendham Borough	Morris	2	25	11	63	89	0	152
Mendham Township	Morris	2	41	25	72	88	0	160
Mine Hill Township	Morris	2	61	0	130	46	0	176
Menterville Township	Morris	2	261	18	390	391	0	766
Morris Plains Borough	Morris	2	144	35	87	112	0	199
Morris Township	Morris	2	293	30	331	285	0	616
Morrisstown Town	Morris	2	138	150	126	117	0	243
Mount Arlington Borough	Morris	2	17	15	58	69	0	127
Mount Olive Township	Morris	2	45	145	183	294	0	477
Mountain Lakes Borough	Morris	2	80	1	187	145	61	271
Netcong Borough	Morris	2	0	20	18	18	0	36
Parisippany-Troy Hills Township	Morris	2	664	189	717	597	0	1313
Pequannock Township	Morris	2	134	80	162	187	0	349
Randolph Township	Morris	2	261	35	252	391	0	643
Riverdale Borough	Morris	2	58	2	135	116	0	251

APPENDIX 1

Report and Recommendations - Region 2 Summary of Municipal Affordable Housing Needs

Municipality	County	Region	Prior Round Obligation, 1987-1999 (units)	Present Need, 2015 (units)	Calculated GAP Prospective Need, 1999-2015 (units)	Calculated Prospective Need, Pre 20% Cap. 2015-2025 (units)	20 Percent Cap Reduction	Cumulative Prospective Need, 1999-2025 (post 20% cap and pre 1,000-unit cap) (units)
Rockaway Borough	Morris	2	43	18	71	58	0	129
Rockaway Township	Morris	2	370	26	224	343	0	567
Roxbury Township	Morris	2	255	26	367	474	0	841
Victory Gardens Borough	Morris	2	0	15	3	2	0	6
Washington Township	Morris	2	66	10	121	146	0	267
Wharton Borough	Morris	2	42	108	60	84	0	145
			4,975	1,750	6,838	7,112	61	13,389

APPENDIX C:
DOCUMENTATION RELATED TO THE STATUS OF WATER AND
SEWER AVAILABILITY IN THE TOWNSHIP



Paul W. Ferriero, PE, PP, CME, LEED AP, CFM
Robert C. Brightly, PE, PP, CME

Steven B. Bolio, PE, CME
Mark S. Denisiuk, PE, CME, LEED AP
Mark Kataryniak, PE, PTOE
Joseph S. Kosinski, PG, CFM, LEED AP
C. Richard Quamme, PE, CME
Jess H. Symonds, PE

August 2, 2022

Edward J. Buzak, Esq.
Buzak Law Group
150 River Rd # N4
Montville, NJ 07045

Re: Water Supply Capacity Analysis
Randolph Township

Dear Mr. Buzak:

This letter serves as an update to the capacity analysis for the Randolph Township water system. As you are aware, the Township has been under a scarce resource order (SRO) due to the projected demands related to the Township's affordable housing obligations. Attached to this letter are updated documents that have previously been identified as Table A and Table B. Table A is a list of the previously approved developments in the Township and has been modified to account for development that has been completed. Table B is a list of the inclusionary developments in the Township based on the settlement documents. The final update to the analysis is a revision to the Township's Firm Capacity as determined by the NJDEP. The peak demand that existed when the SRO was established has lapsed because it was more than 5 years ago. The current peak used for the Firm Capacity analysis was from July 2020 and will be in place until July 2025 unless a higher peak demand is established. The monthly usage is being monitored to check the peaks. The table below provides a summary of the water capacity analysis:

Total available Firm Capacity per NJDEP(last updated 2/7/22)MGD	0.735
Approved short term peak - MGD (Table A)	0.160
Projected Firm Capacity - MGD	0.575
Inclusionary demand based on settlements (Table B) MGD	<u>0.519</u>
Net Projected Firm Capacity - MGD	0.056

• • •

■ 180 Main Street • P.O. Box 571 • Chester, NJ 07930 • 908-879-6209 • Fax: 908-879-6597
□ 17 Model Avenue • P.O. Box 577 • Hopewell, NJ 08525 • 609-466-0002 • Fax: 609-466-2008
mail@FerrieroEngineering.com

Ferriero Engineering, Inc.

August 2, 2022

Page 2

Re: Water Supply Capacity Analysis
Randolph Township

Based on the above, the Township's peak water capacity will be 56,000 gallons per day after reserving water for previously approved projects and the inclusionary development.

Please let me know if you require further information.

Very truly yours,



Paul W. Ferriero, PE, CME
Township Engineer

cc: Katherine Sarmad, PP, AICP

TABLE A UPDATED

Future Water Demands
Randolph Township
8/2/2022

	Site	Location	Use type	U/M	Unit demand	No. Units	Total Demand	Peak Demand
1	Rose of Sharon	Dover Chester Rd	single family	lot	300	1	300	900
2	Kozak	Middlebury Blvd	commercial	SF	0.125	35,000	4,375	13,125
3	Randolph Diner	Rt 10/Center Grove	commercial	SF	0.125	2,335	292	876
4	Gordon Randolph MAB	Route 10	commercial	SF	0.125	13,580	1,698	5,093
5	Lubrano	Jodilee Lane	single family	lot	300	3	900	2,700
6a	Kahn	Dover Chester Rd	retail	SF	0.125	3,885	486	1,457
6b			apartment	each	300	1	300	900
7	Japar	West Hanover Ave	retail	SF	0.125	6,050	756	2,269
8	1.01 Aspen Dr	Aspen Dr	commercial	SF	0.125	51,085	6,386	19,157
9	Heller Group	West Hanover Ave	retail	SF	0.125	32,670	4,084	12,251
10	SJC Bldrs	Route 10	office/daycare	SF	0.125	24,560	3,070	9,210
11	Elbaum Homes	Route 10	medical office	SF	0.125	22,000	2,750	8,250
12a	Gourmet Dev	Dover Chester Rd	retail	SF	0.125	4,970	621	1,864
12b			apartment	each	300	1	300	900
13	Randolph Mountain		single family	lot	300	34	10,200	30,600
14	Mt Freedom 1	Harvey/Carellen	single family	lot	300	3	900	2,700
15	Mt Freedom 2	Woodlawn/Shuman	single family	lot	300	11	3,300	9,900
16	Sussex Turnpike redew	Sussex Turnpike	mixed use	est	8,000	1	8,000	24,000
17a	Progress Properties Grp	Middlebury Blvd	office	SF	0.125	12,880	1,610	4,830
17b			warehouse	person/shift	25	20	500	1,500
18	Heller Group	West Hanover Ave	retail	SF	0.125	8,400	1,050	3,150
19	Sussex/Millbrook LLC	Sussex Turnpike	mixed use	SF	0.125	12,540	1,568	4,703
						Total projected demand	53,444	160,333
								June-25
								0.735
								0.160
								0.575
								0.519
								0.056

Total available Firm Capacity per NJDEP (last updated 2/7/22) MGD

Approved short term peak - MGD

Projected Firm Capacity - MGD

Inclusionary demand based on settlements

Net Projected Firm Capacity - MGD

Water Demand										Approved										Total Peak																																																						
1 BR			2 BR			3 BR			Townhouse			Apartment			1 BR			2 BR			3 BR			Market			Avg. daily			Market			Avg. daily			Market			Avg. daily			Grand Total			Grand Total			Total Peak																										
Toll Brothers			931 Rt 40			B 44, L 4			Total Units			Affordable Units			Affordable 1 br			Avg. daily			Affordable 2 BR			Avg. daily			Affordable 3 BR			Avg. daily			Total GPD			Market Units			Avg. daily			Market 2 BR			Avg. daily			Market 3 BR			Avg. daily			Grand Total			Grand Total			0.51906 MGD														
Project			Total Units			Affordable Units			Affordable 1 br			Avg. daily			Affordable 2 BR			Avg. daily			Affordable 3 BR			Avg. daily			Total GPD			Market Units			Avg. daily			Market 2 BR			Avg. daily			Market 3 BR			Avg. daily			Grand Total			Grand Total			Total Peak																				
Toll Brothers			931 Rt 40			B 44, L 4			Townhouses			136			28			0			120			14			140			14			200			4760			108			0			120			0			140			0			200			21600			26360			79080								
Sussex Ridge/Elbaum			B 97, L 26, 27, 01, 27, 02			Townhouses			16			3			0			120			2			140			1			200			480			13			0			120			13			140			0			200			1820			2300			6900											
Canoe Brook			143 Dover Chester			B 44 L 25			Apartments			97			40			8			95			24			140			8			215			5840			57			20			95			33			140			4			215			7380			13220			39660								
Townhouses			Total			102			0			95			0			0			140			0			215			0			102			6			95			80			140			16			215			15210			14750			45630			85290											
Heller			1W Hanover Ave			B 119, L 130			Apartments			25			25			95			0			140			0			215			2375			0			95			0			140			0			215			0			2375			7125			14750			51375								
Elbaum Homes			873 Route 10			Total			100			0			95			0			140			0			215			0			100			0			95			90			95			90			140			140			0			215			10			14750			14750			51375		
876 Route 10 (S/C)			879, 885 Route 10			Total			48			10			2			95			6			140			4			215			1460			38			0			95			38			140			0			215			0			215			5320			6780			20340					
Kardan/Avalon Bay			821 Rt 10			Total			34			6			95			21			140			7			215			5015			134			95			134			140			0			215			18760			23775			71325																	
B 44, L 8,9			Apartments			91			18			3			95			11			140			4			215			2685			73			0			95			73			140			0			215			10220			12905			38715														

Voynick
1196-1200 Sussex Tpl
B 101, L 6, 7
Apartments
25
1
95
3
.140
1
215
730
20
0
95
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215
2800
3530
10590

APPENDIX D:
AFFORDABLE HOUSING AND MANDATORY SET-ASIDE ORDINANCE
(DRAFT, UNADOPTED)

TOWNSHIP OF RANDOLPH, MORRIS COUNTY

ORDINANCE No. _____

AN ORDINANCE TO REPEAL §15-20.5, -20.6, AND -20.7, AND SECTION 15-90.10 IN ARTICLE III (ZONING) OF CHAPTER XV (LAND DEVELOPMENT ORDINANCES) OF THE TOWNSHIP OF RANDOLPH, AND TO ENACT SECTION 15-54 (AFFORDABLE HOUSING) UNDER ARTICLE IV (SUPPLEMENTARY ZONING REGULATIONS) IN CHAPTER XV (LAND DEVELOPMENT ORDINANCES) OF THE ORDINANCES OF THE TOWNSHIP OF RANDOLPH

WHEREAS, in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV"), the Township of Randolph filed an action for declaratory judgment requesting that the Court declare that Randolph has complied with its constitutional obligation to provide a realistic opportunity for the development of housing that is affordable to low- and moderate-income families and individuals; and

WHEREAS, in order to carry out such Constitutional obligation, the Ordinances of the Township of Randolph are to be amended to include provisions addressing Randolph's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units; and

WHEREAS, this Ordinance shall apply except where inconsistent with applicable law; and

WHEREAS, the Randolph Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq.; and

WHEREAS, the Housing Element and Fair Share Plan have been endorsed by the governing body; and

WHEREAS, this Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985;

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Randolph as follows:

SECTION 1. §15-20.5 (Income eligibility requirements for housing in the R-5 residential district), §15-20.6 (Affirmative marketing program), and §15-20.7 (Controls on affordability) of 15-20 (R-5 Multi-Family Residential Zone) in Article III (Zoning) of Chapter XV (Land Development Ordinances) of the Ordinances of the Township of Randolph are hereby repealed and replaced with the following:

Section 15-20.5 – Affordable Housing Requirements in the R-5 Zone

A. Affordable housing in the R-5 zone shall be subject to the requirements set forth under Section 15-54 – 15-55.

SECTION 2. Section 15-90.10 (Enforcement of affordable housing regulations) is hereby repealed in its entirety.

SECTION 3. Section 15-54 (Affordable Housing) of Article IV (Supplementary Zoning Regulations) in Chapter XV (Land Development Ordinances) of the Ordinances of the Township of Randolph is hereby enacted as follows:

Section 15.54.1- Purpose

(a) This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability and that low- and moderate-income households shall occupy these units. This Ordinance is also intended to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the Township that results in multi-family residential development of five (5) dwelling units or more produces affordable housing at a set-aside rate of 20% for for-sale affordable units and at a set-aside rate of 15% for rental affordable units. This Ordinance shall apply except where inconsistent with applicable law. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Township of Randolph to grant such rezoning, variance or other relief. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement.

(b) The Township of Randolph Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. (hereinafter "Fair Share Plan"). The Fair Share Plan was subsequently endorsed by the governing body. The Fair Share Plan describes how Randolph Township shall address its fair share of low- and moderate-income housing as documented in the Fair Share Plan itself, the Settlement Agreement entered into between the Township of Randolph, Fair Share Housing Center ("FSHC"), (hereinafter "Settlement Agreement"), and the Court Order approving same, which was entered by the Court on June 3, 2022 after a properly noticed Fairness Hearing.

(c) The Township of Randolph shall track the status of the implementation of the Fair Share Plan. Any evaluation report of the Fair Share Plan shall be available to the public at the Township Municipal Building located at 502 Millbrook Avenue, Randolph, NJ 07869.

Section 15-54.2- Definitions

The following terms, when used in this article, shall have the meanings given in this section:

ACT — The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

ADAPTABLE — Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT — The entity responsible for the administration of affordable units in accordance with this article, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26.1), and any provisions under N.J.A.C. 5:97 that were not invalidated by Mount Laurel IV and any successor regulations.

AFFIRMATIVE MARKETING — A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE — The average percentage of median income at which new restricted units in an affordable housing development are affordable to very low-, low- and moderate-income households.

AFFORDABLE — A sales price or rent level that is within the means of a very low-, low- or moderate-income household as defined in N.J.A.C. 5:93 and N.J.S.A. 52:27D-304 and in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE DEVELOPMENT — A housing development of which all or a portion consists of housing affordable to very low-, low- and moderate-income households.

AFFORDABLE HOUSING DEVELOPMENT — A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable housing development.

AFFORDABLE HOUSING PROGRAM(S) — Any mechanism in a municipal fair share plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT — A housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:93 and any provisions under N.J.A.C. 5:97 that were not invalidated by Mount Laurel IV, and/or funded through an affordable housing trust fund.

AGE-RESTRICTED UNIT — A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that:

- A. All the residents of the development where the unit is situated are 62 years of age or older; or
- B. At least 80% of the units are occupied by one person that is 55 years of age or older; or
- C. The development has been designated by the Secretary of the United States Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

AGENCY — The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

ALTERNATIVE LIVING ARRANGEMENT — A building in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to, transitional facilities for the homeless; Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs;

residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ASSISTED LIVING RESIDENCE — A facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

CERTIFIED HOUSEHOLD — A household determined to be income eligible for a very low-, low-, or a moderate-income housing unit by a qualified Administrative Agent after the Agent has verified the household's gross annual income, credit history, and compared the household's family size to the occupancy requirements delineated in N.J.A.C. 5:93-9.1(b)14.

COAH — The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

DCA — The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT — A housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load-bearing structural systems.

DEVELOPER — Any person, partnership, association, company, or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development, including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

DEVELOPMENT FEE — Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8. and as required by N.J.S.A 52:27D-329.2.

EQUALIZED ASSESSED VALUE — The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973. c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

FAIR SHARE PLAN — the plan that describes the mechanisms and the funding sources, if applicable, by which a municipality proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:97-3.

FHA — The New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

GREEN BUILDING STRATEGIES — Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

HOUSING PLAN ELEMENT — The portion of the Township's Master Plan required by the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-28b(3) and other legislation.

INCLUSIONARY DEVELOPMENT — A development containing both affordable units and market-rate units. This term includes, but is not limited to new construction, the conversion of a nonresidential structure to residential use and the creation of new affordable units through the reconstruction of a vacant residential structure.

INCOME — Includes revenue and receipts, actual or fairly imputed, from all sources, including but not limited to wages, interest, dividends, social security, pensions, government benefits, alimony, child support and rents from income property.

INITIAL RENTAL — The first transfer of occupancy from a developer to a qualified renter.

INITIAL SALE — The first transfer of title of a unit from a developer to a qualified buyer.

LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 50% or less of the median household income for the applicable housing region.

LOW-INCOME UNIT — A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM — The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include, but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load-bearing structural systems.

MARKET-RATE UNITS — Housing not restricted to very low-, low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME — The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

MODERATE-INCOME HOUSEHOLD — A household with a total gross annual household income in excess of 50% but less than 80% of the median household income for the applicable housing region.

MODERATE-INCOME UNIT — A restricted unit that is affordable to a moderate-income household.

MUNICIPAL HOUSING LIAISON — A municipal employee responsible for oversight of the municipal affordable housing program, including overseeing the administration of affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent.

NONEXEMPT SALE — Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary and the transfer of ownership by court order.

PRESENT NEED — An estimate of low- and moderate-income households living in substandard housing as calculated through the use of census surrogates.

PRIOR ROUND HOUSING OBLIGATION — The 1987 – 1999 fair share based on N.J.A.C. 5:93-1.

RANDOM SELECTION PROCESS — A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery), UHAC (N.J.A.C. 5:80), and except for Section 311.11(j) of the FHA, which allows for a municipality to enter into an agreement with a developer to provide a preference for affordable housing to low- and moderate-income veterans ("Veteran's Preference") who served in time of war or other emergency as defined in section 1 of P.L.1963, c. 171 (C.54:4-8.10), of up to fifty percent (50%) of the affordable units in a particular project. N.J.S.A. 52:27D-311.11(j).

REGIONAL ASSET LIMIT — The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by COAH's (or a Court-approved successor entity's) adopted regional income limits published annually by COAH or a successor entity approved by the Court.

REHABILITATION — The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT — The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT — A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

SUPERIOR COURT — The Superior Court of New Jersey.

THIRD ROUND HOUSING OBLIGATION — The 1999 – 2025 housing obligation as determined by the Superior Court.

TOWNSHIP — The Township of Randolph.

TOWNSHIP COUNCIL — The Township Council of the Township of Randolph.

UHAC — The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26 et seq.

VERY LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 30% or less of the median household income for the applicable housing region.

VERY LOW-INCOME UNIT — A restricted unit that is affordable to a very low- income household.

VETERAN'S PREFERENCE — A preference for very-low-, low- and moderate-income housing that is permitted by law for people that have served in the military, pursuant to Section 311.11(j). of the FHA, which allows for a municipality to enter into an agreement with a developer to provide a preference for affordable housing to low- and moderate-income veterans who served in time of war or other emergency as defined in section 1 of P.L.1963, c. 171 (C.54:4-8.10), of up to fifty percent (50%) of the affordable units in a particular project. N.J.S.A. 52:27D-311.11(j).

WEATHERIZATION — Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of the rehabilitation program.

Section 15-54.3. Mandatory Affordable Housing Set-Aside

A. **Affordable Housing Set-Aside.** A mandatory on-site affordable housing set-aside requirement shall apply beginning with the effective date of this ordinance to any residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units at six (6) units per acre or higher, or equivalent, which results, in whole or in part, from: (i) a municipal rezoning or zoning amendment adopted after the effective date of this Ordinance; (ii) any variance pursuant to N.J.S.A. 40:55D-70(d), including but not limited to any use variance or a density variance increasing the permissible density; and (iii) the adoption of a new or amended redevelopment plan or rehabilitation plan. The set-aside shall be twenty percent (20%) where the affordable units are provided for sale and fifteen percent (15%) where the affordable units are provided for rental. For any such development for which the Township's land use ordinances (e.g. zoning or an adopted Redevelopment Plan) already permitted residential development as of the effective date of this Ordinance, this requirement shall only apply if the Township permits an increase in gross residential density.

- (1) All affordable housing controls and standards are subject to the rules of the Council on Affordable Housing ("COAH") or any subsequent state agency, or as approved by the Court. The development, marketing and sale of the affordable units shall be pursuant to applicable state regulations and of this chapter, and any subsequent amendments thereto.
- (2) This requirement shall not impose any obligation on a development, or the nonresidential portion of a mixed-use development, that is subject to the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq.
- (3) All subdivision and site plan approvals of qualifying developments shall be conditioned upon compliance with the provisions of the mandatory affordable housing set-aside.

- (4) No subdivision shall be permitted or approved for the purpose of avoiding compliance with the mandatory affordable housing set-aside. A developer may not, for example, subdivide a project into two lots and then plan each of them to produce a number of units below the threshold. The approving authority may impose any reasonable conditions to ensure such compliance.
- (5) The mandatory affordable housing set-aside shall not give any developer the right to any rezoning, variance, redevelopment designation or redevelopment or rehabilitation plan approval, or any other such relief, or establish any obligation on the part of the municipality to grant such rezoning, variance, redevelopment designation, redevelopment or rehabilitation plan approval, or other such or further relief.

B. This section shall not apply to any sites or specific zones otherwise identified in the Township's Settlement Agreement with FSHC dated August 19, 2021, approved by Court Order dated June 3, 2022, or in the Township's Housing Element and Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.

C. This section shall not apply to developments containing four (4) or less dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units, and builds new dwelling units on the same site, or expands an existing building, the provisions of this section shall apply only if the net number of dwelling units is five (5) or more.

Section 15-54.4 - Affordable Housing Programs

- A. The Township of Randolph will use the following mechanisms to satisfy its affordable housing obligations:
 - (1) A Rehabilitation Program.
 - a. The Township of Randolph and FSHC have agreed that the Township's indigenous need rehabilitation obligation is thirty-three (33) units. The Township currently participates in the Morris County Housing Rehabilitation Program and Morris County HOME Consortium, which is funded through county CDBG planning. The Township will continue to participate in this rehabilitation program to ensure that its entire rehabilitation obligation has been satisfied. The Township ensure that this rehabilitation program will update and renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28. The Township will also make funds available for the rehabilitation of rental units. The Township will continue to rehabilitate housing units to improve its housing stock and to continue to provide indigenous need affordable units.
 - b. All rehabilitated rental and owner-occupied units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.

- c. Units in a Rehabilitation Program shall be exempt from N.J.A.C. 5:93-9 and UHAC requirements, but shall be administered in accordance with the following:
 - i. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.
 - ii. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9 or the standards issued by a New Jersey administrative agency with proper authority to issue such standards.
 - iv. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

- (2) **Phasing.** Inclusionary developments shall be subject to the following schedule, except where an alternate phasing schedule has been incorporated into a development or redevelopment agreement:

Minimum Percentage of Low- and Moderate-Income Units Completed	Maximum Percentage of Market-Rate Units Completed
0%	25%
10%	25% + 1 Unit
50%	50%
75%	75%
100%	90%

- (3) **Fractional Units.** If 15 or 20 percent of the total number of units in a development (or the set-aside, as applicable) results in a fraction or decimal, the developer shall be required to provide an additional affordable unit on site.

Example: an 8-unit development requiring an affordable housing set-aside of 1.6 units is proposed. The developer is required to provide two on-site affordable units.

- (4) **Integration of Affordable Units.** In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market rate units.
- (5) **Utilities.** Affordable units shall utilize the same type of heating source as market units within the affordable development.

Section 15-54.5 - New Construction

A. The following general guidelines apply to all newly constructed developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

(1) Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

- a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units the extra unit shall be a low- income unit.
- b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units. If there is only one affordable unit it must be a low income unit.
- c. Thirteen percent (13%) of all affordable units in the Township, 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, shall be designated as very-low income households at 30% of the median income, with at least fifty percent (50%) of all very-low income units being available to families. Very-low income units shall be considered low-income units for the purposes of evaluating compliance with the required low/moderate income unit splits, bedroom distribution, and phasing requirements of this ordinance.
- d. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units are two bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
 - iv. The remaining units, if any, may be allocated among two and three bedroom units at the discretion of the developer.
- e. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

(2) Accessibility Requirements:

- a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
- b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- i. An adaptable toilet and bathing facility on the first floor;
- ii. An adaptable kitchen on the first floor;
- iii. An interior accessible route of travel on the first floor;
- iv. An interior accessible route of travel shall not be required between stories within an individual unit;
- v. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Township of Randolph has collected funds from the developer sufficient to make ten percent (10%) of the adaptable entrances in the development accessible:
 - 1. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - 2. To this end, the builder of restricted units shall deposit funds within the Township's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.
 - 3. The funds deposited under paragraph b. above shall be used by the Township of Randolph for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - 4. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Township.
 - 5. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund and appropriately earmarked.
 - 6. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

(3) Maximum Rents and Sales Prices

- a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC utilizing the regional income limits established by the New Jersey Department of Community Affairs (DCA) or other agency as required by the Court.
- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and

the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.

- c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
 - i. At least thirteen percent (13%) of all low- and moderate-income dwelling units shall be affordable to households earning no more than 30 percent of median income.
- d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- e. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household;
 - iii. A two-bedroom unit shall be affordable to a three-person household;
 - iv. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - v. A four-bedroom unit shall be affordable to a six-person household.
- f. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - iii. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

- h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- i. 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.
- j. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
- k. Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

Section 15-54.6 - Affirmative Marketing Requirements

- A. The Township of Randolph shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented. The initial Affirmative Marketing Plan shall include the following community and regional organizations: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, East Orange NAACP, Newark NAACP, Morris County NAACP, Elizabeth NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc., Homeless Solutions of Morristown, the Supportive Housing Association and the New Jersey Housing Resource Center.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 2 and covers the period of deed restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 2.
- D. The Administrative Agent designated by the Township of Randolph and/or the developer/owner shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.

- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- G. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township.

Section 15-54.7 - Occupancy Standards

- A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - (a) Provide an occupant for each bedroom;
 - (b) Provide separate bedrooms for adults and children;
 - (c) Provide children of different sex with separate bedrooms; and
 - (d) Prevent more than two persons from occupying a single bedroom.
- B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

Section 15-54.8 - Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until the Township of Randolph elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- D. At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Ordinance, an amount equal to the difference between the

unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

- E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

Section 15-54.9 - Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

- A. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:
 - (1) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
 - (2) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
 - (3) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
 - (4) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

Section 15-54.10 - Buyer Income Eligibility

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income. Very low income units shall be reserved for households with a gross household income of less than 30 percent of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

Section 15-54.11 - Limitations on indebtedness secured by ownership unit; subordination

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the Administrative Agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

Section 15-54.12 - Control Periods for Restricted Rental Units

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the Township of Randolph elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, et. al, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, et al as may be amended and supplemented, for at least 30 years.
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Morris. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure.

Section 15-54.13 - Price Restrictions for Rental Units; Leases

- A. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative

Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

Section 15-54.14 - Tenant Income Eligibility

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - 1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - 2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - 3. The household is currently in substandard or overcrowded living conditions;
 - 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b) 1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

Section 15-54.15 - Administration

- A. The position of Municipal Housing Liaison (MHL) for the Township of Randolph is established by this ordinance. The Township shall make the actual appointment of the MHL by means of a resolution.
 - 1. The MHL must be either a full-time or part-time employee of Randolph.
 - 2. The person appointed as the MHL must be reported to the Court and thereafter posted on the Township's website.

3. The MHL must meet all the requirements for qualifications, including initial and periodic training, if such training is made available by COAH or the DCA.
4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Randolph, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls.
 - iii. When applicable, supervising any contracting Administrative Agent.
 - iv. Monitoring the status of all restricted units in the Township's Fair Share Plan;
 - v. Compiling, verifying and submitting annual reports as required;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.

B. The Township of Randolph shall designate by resolution of the Township Council, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:93 and UHAC.

C. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

D. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, and shall have authority to take all actions necessary and appropriate to carry out its responsibilities, which includes:

1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ);
2. Affirmative Marketing;
3. Household Certification;
4. Affordability Controls;
5. Records retention;
6. Resale and re-rental;
7. Processing requests from unit owners; and
8. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.

Section 15-54.16 - Enforcement of Affordable Housing Regulations

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law

or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - a. A fine of not more than \$2,000.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - b. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Randolph Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - c. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
3. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
4. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall

be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

5. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
6. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
7. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
8. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

Section 15-54.17 - Annual And Periodic Monitoring of The Implementation of The Township's Affordable Housing Plan

- A. Beginning one year after the entry of the Township's Round 3 Judgment of Compliance and Repose, the Township agrees to provide annual reporting of the status of all affordable housing activity within the Township through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the

Special Master and Fair Share Housing Center. 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.

B. The Fair Housing Act includes two provisions regarding action to be taken by the Township during its ten-year repose period. The Township agrees to comply with those provisions as follows:

1. 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 Fair Share Housing Center, 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 and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the Township, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
2. 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 entry of the Township's Judgement of Compliance and Repose, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, 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 Township and Fair Share Housing Center on the issue of whether the Township has complied with its very low income housing obligation under the terms of this settlement.
3. 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.

SECTION 4. Appeals

Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed with the Superior Court of New Jersey, Morris County.

SECTION 5. Repealer

The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 6. Inconsistent Ordinances

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION 7. Severability

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 22. Effective Date

This Ordinance shall take effect upon its passage and publication according to law.

INTRODUCED the _____ day of _____, 2022.

ADOPTED the _____ day of _____, 2022.

ATTEST:

Donna Luciani, Township Clerk

Marie Potter, Mayor

APPENDIX E:
AFFIRMATIVE MARKING PLAN RESOLUTION
(DRAFT, UNADOPTED)

RESOLUTION OF THE TOWNSHIP OF RANDOLPH, COUNTY OF MORRIS, STATE OF NEW JERSEY ADOPTING AN AFFIRMATIVE MARKETING PLAN FOR THE TOWNSHIP OF RANDOLPH

WHEREAS, in accordance with applicable Council on Affordable Housing (“COAH”) regulations, the New Jersey Uniform Housing Affordability Controls (“UHAC”)(N.J.A.C. 5:80-26., et seq.), and the Township’s Declaratory Judgment action entitled In the Matter of the Application of the Township of Randolph for Declaratory Judgment, Docket No. MRS-L-1640-15, which was filed in response to Supreme Court decision In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (“Mount Laurel IV”), the Township of Randolph is required to adopt by resolution an Affirmative Marketing Plan to ensure that all affordable housing units created, including those created by rehabilitation, are affirmatively marketed to low and moderate income households, particularly those living and/or working within Housing Region 2, which encompasses the Township of Randolph.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Township of Randolph, County of Morris, State of New Jersey, do hereby adopt the following Affirmative Marketing Plan:

Affirmative Marketing Plan

- A. All affordable housing units in the Township of Randolph shall be marketed in accordance with the provisions herein unless otherwise provided in N.J.A.C. 5:93-1, et seq.
- B. The Township of Randolph has a Third Round obligation. This Affirmative Marketing Plan shall apply to all developments that require an Affirmative Marketing Plan or will contain low and moderate income units, including those that are part of the Township’s current Housing Element and Fair Share Plan, and those that may be constructed in future developments not contemplated in the Township’s Housing Element and Fair Share Plan. This Affirmative Marketing Plan shall also apply to any rehabilitated rental units that are vacated and re-rented during the applicable period of controls for identified rehabilitated rental units.
- C. The Affirmative Marketing Plan shall be implemented by the Administrative Agent under contract to the Township of Randolph. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developer/seller/owner of the affordable unit(s).
- D. In implementing the Affirmative Marketing Plan, the Administrative Agent, acting on behalf of the Township, shall undertake all of the following strategies:
 1. Publication of one advertisement in a newspaper of general circulation within the housing region.
 2. Broadcast of one advertisement by a radio or television station broadcasting throughout the housing region.

3. At least one additional regional marketing strategy using one of the other sources listed below.
- E. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 2 in which the Township is located and covers the entire period of deed restriction for each restricted housing unit.
- F. The Affirmative Marketing Plan is a continuing program intended to be followed throughout the entire period of restrictions and shall meet the following requirements:
 1. All newspaper articles, announcements and requests for application for low and moderate income units shall appear in the Randolph Reporter and the Daily Record.
 2. The primary marketing shall take the form of at least one press release and a paid display advertisement in the above newspapers once a week for four consecutive weeks. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of publication to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Township's Administrative Agent.
 3. The advertisement shall include a description of the:
 - i. Location of the units;
 - ii. Direction of the units;
 - iii. Range of prices for the units;
 - v. Size, as measured in bedrooms, of units;
 - vi. Maximum income permitted to qualify for the units;
 - vii. Location of applications;
 - viii. Business hours when interested households may obtain an application; and
 - ix. Application fees.

4. Newspaper articles, announcements and information on where to request applications for low and moderate income housing shall appear at least once a week for four consecutive weeks in at least three locally oriented weekly newspapers within the region, one of which shall be circulated primarily in Morris County and the other two of which shall be circulated primarily outside of Morris County but within the housing region.
5. Four or more of the following regional cable television stations or regional radio stations shall be used during the first month of advertising. The developer must provide satisfactory proof of public dissemination:

Cable Television Stations

- i. 2 WCBS-TV - CBS Broadcasting Inc.
- ii. 3 KYW-TV - CBS Broadcasting Inc.
- iii. 4 WNBC - NBC Telemundo License Co. (General Electric)
- iv. 5 WNYW - Fox Television Stations, Inc. (News Corp.)
- v. 7 WABC-TV - American Broadcasting Companies, Inc (Walt Disney)
- vi. 9 WWOR-TV - Fox Television Stations, Inc. (News Corp.)
- vii. 11 WPIX - WPIX, Inc. (Tribune)
- viii. 13 WNET - Educational Broadcasting Corporation
- ix. 25 WNYE-TV - New York City Dept. of Info Technology & Telecommunications
- x. 31 WPXN-TV - Paxson Communications License Company, Llc
- xi. 41 WXTV - WXTV License Partnership, G.p. (Univision Communications Inc.)
- xii. 47 WNJU - NBC Telemundo License Co. (General Electric)
- xiii. 50 WNJN - New Jersey Public Broadcasting Authority
- xiv. 52 WNJT - New Jersey Public Broadcasting Authority
- xv. 54 WTBY-TV - Trinity Broadcasting Of New York, Inc.
- xvi. 58 WNJB - New Jersey Public Broadcasting Authority

- xvii. 62 WRNN-TV - WRNN License Company, LLC
- xviii. 63 WMBC-TV - Mountain Broadcating Corporation
- ix. 68 WFUT-TV - Univision New York LLC
- xx. 22 WMBQ-CA - Renard Communications Corp.
- xxi. 66 WFME-TV - Family Stations of New Jersey, Inc.
- xxii. 21 WLIW - Educational Broadcasting Corporation
- xxiii. 60 W60AI - Ventana Television, Inc

Regional Radio Stations (AM)

- i. WMCA 570
- ii. WNYC 820
- iii. WCBS 880
- iv. WPAT 930
- v. WWDJ 970
- vi. WINS 1010
- vii. WEPN 1050
- viii. WKMB 1070
- ix. WBBR 1130
- x. WLIB 1190
- xi. WMTR 1250
- xi. WADO 1280
- xii. WNSW 1430
- xiii. WJDM 1530
- xiv. WQEW 1560
- xv. WWRU 1660

xvi. WCTC 1450

Regional Radio Stations (FM)

- i. WBGO 88.3
- ii. WSOU 89.5
- iii. WKCR-FM 89.9
- iv. WFMU 91.1
- v. WNYE 91.5
- vi. WSKQ-FM 97.9
- vii. WBAI 99.5
- viii. WDHA -FM 105.5
- ix. WCAA 105.9
- x. WBLS 107.5
- xi. WPRB 103.3
- xii. WMGQ 98.3
- xiii. WCTO 96.1

6. Applications, brochure(s), sign(s), and/or poster(s) used as part of the affirmative marketing program shall be available/posted in the following locations:

- i. Township Municipal Building
520 Millbrook Avenue, Randolph, NJ 07869
- ii. Randolph Township Public Library
28 Calais Road, Randolph, NJ 07869
- iii. Township Website
<http://www.randolphnj.org/>
- iv. Developer's Sales/Rental Office
- v. Morris County Administration Building
10 Court Street, Morristown, NJ 07960

Applications shall be mailed by the Administrative Agent to the prospective applicants upon request. Also, applications shall be made available at the developer's sales/rental office and shall be mailed to prospective applicants upon request.

7. The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organization(s) in Essex, Morris, Union, and Warren Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers (See Attachment A).

i. Quarterly informational flyers and applications for vacant and/or available units shall be sent to each of the following agencies for publication in their journals and for circulation among their members:

Union County Board of Realtors

Morris County Board of Realtors

Essex County Board of Realtors

Warren County Board of Realtors

ii. Quarterly informational circulars and applications for vacant and/or available units shall be sent to the administrators of each of the following agencies in the counties of Essex, Morris, Union, and Warren:

Welfare or Social Service Board

Rental Assistance Office (local office of DCA)

Office on Aging

Housing Authority Community

Action Agencies

Community Development Departments

iii. Quarterly informational circulars and applications for vacant and/or available units shall be sent to the chief personnel administrators of all the major employers within the region as listed on Attachment A in accordance with the Region 2 Affirmative Marketing Plan.

iv. Quarterly informational circulars, applications, and copies of press releases and advertisements of the availability of low and moderate income housing

shall be sent to the following additional community and regional organizations:

Fair Share Housing Center

New Jersey State Conference of NAACP

The Latino Action Network

East Orange NAACP

Newark NAACP

Elizabeth NAACP

Morris County NAACP

Supportive Housing Association

New Jersey Housing Resource Center of the NJ HMFA

Housing Partnership for Morris County

Community Access Unlimited, Inc.

Northwest New Jersey Community Action Program, Inc.

Homeless Solutions of Morristown

8. A random selection method to select occupants of low and moderate income housing will be used by the Administrative Agent in conformance with N.J.A.C. 5:80-26.16(l). The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 2 comprised of Essex, Morris, Union, and Warren Counties.
9. The Administrative Agent shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify low and moderate income households; to place income eligible households in low and moderate income units upon initial occupancy; to provide for the initial occupancy of low and moderate income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:80-26.1, et seq.
10. The Administrative Agent shall provide or direct qualified low and moderate income applicants to counseling services on subjects such as budgeting, credit issues,

mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services.

11. All developers/owners of low and moderate income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the Administrative Agent.
12. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all low and moderate income housing units are initially occupied and for as long as affordable units exist that remain deed restricted and for which the occupancy or re-occupancy of units continues to be necessary.
13. The Administrative Agent shall provide the Affordable Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C.5:80-26-1, et seq. and the Order granting the Township a Final Judgment of Compliance and Repose.

Donna Luciani
Township Clerk

Attachment A

Employer Outreach: Names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing

Essex County

Continental Airlines
1 Newark Airport
Newark, NJ

Newark Liberty International Airport
Newark Airport
Newark, NJ

Verizon Communications
540 Broad St
Newark, NJ

University of Medicine/Dentistry
Office of Marketing & Media Relations
150 Bergen Street, Room D347
Newark, NJ

Public Service Enterprise Group
80 Park Plz
Newark, NJ

Prudential Insurance & Prudential Financial
751 Broad St
Newark, NJ

Horizon Blue Cross & Blue Shield of NJ
3 Raymond Plz W
Newark, NJ

Horizon Blue Cross & Blue Shield of NJ
540 Broad St
Newark, NJ

Morris County

Atlantic Health System-Morristown
Memorial Hospital
100 Madison Avenue
Morristown, NJ

AT&T
295 N Maple Ave
Basking Ridge, NJ and
180 Park Ave, Florham Park, NJ

Pfizer
5 Woodhollow Rd
Parsippany and
175 Tabor Rd
Morris Plains, NJ

US Army Armament R&D
21 Picatinny Arsenal
Picatinny Arsenal, NJ

Lucent Technologies
67 Whippny Rd
Whippny, NJ; and
475 South St
Morristown, NJ; and
5 Wood Hollow Rd
Parsippany, NJ; and
24 Mountain Ave
Mendham, NJ

Novartis Pharmaceutical
59 State Route 10
East Hanover, NJ

Mennen Sports Arena
161 E Hanover Ave
Morristown, NJ

Kraft foods
200 Deforest Ave
East Hanover, NJ; and
7 Campus Dr
Parsippany, NJ

A&M Industrial Supply Co
1414 Campbell St
Rahway, NJ

Bristol-Myers Products Research &
Development
1350 Liberty Ave
Hillside, NJ

Cede Candy Inc
1091 Lousons Road
PO Box 271
Union, NJ

Comcast Network
800 Rahway Ave
Union, NJ

HoneyWell Inc.
1515 West Blancke Street
Bldgs 1501 and 1525
Linden, NJ

Union County College
1033 Springfield Ave, Cranford, NJ

Honeywell
101 Columbia Rd
Morristown, NJ

St. Clare's Hospital
130 Powerville Road
Boonton Township, NJ 07005 and
25 Pocono Road
Denville, NJ; and
400 West Blackwell Street
Dover, NJ; and
3219 Route 46 East, Suite 110
Parsippany, NJ

Union County

IBM Corporation
27 Commerce Drive
Cranford, NJ

Howard Press
450 West First Ave
Roselle, NJ

Lucent Technologies
600 Mountain Ave
Murray Hill, NJ

Merck & Co. Inc
1 Merck Drive
PO Box 2000 (RY60-200E)
Rahway, NJ

Rahway Hospital
865 Stone Street
Rahway, NJ

Rotuba Extruders, Inc
1401 Park Ave South
Linden, NJ

Warren County

Masterfoods USA
800 High Street
Hackettstown, NJ

Warren Hospital
185 Roseberry St
Phillipsburg, NJ

Roche Vitamins
206 Roche Drive
Belvidere, NJ

Hackettstown Hospital
651 Willow Grove St.
Hackettstown, NJ

Pechiney
191 Route 31
North Washington, NJ

Lopatcong Care Center
390 Red School Lane
Phillipsburg, NJ

Mallinckrodt/Baker, Inc
222 Red School Lane
Phillipsburg, NJ

DRAFT

APPENDIX F.:
AMENDED DEVELOPMENT FEE ORDINANCE
(DRAFT, UNADOPTED)

TOWNSHIP OF RANDOLPH, MORRIS COUNTY

ORDINANCE No. _____

AN ORDINANCE REPEALING SECTION 15-91.3 (DEVELOPMENT FEES FOR LOW AND MODERATE INCOME HOUSING) OF ARTICLE VII (ADMINISTRATION, ENFORCEMENT, AND FEES) OF THE CHAPTER XV (LAND DEVELOPMENT ORDINANCES) OF THE ORDINANCES OF THE TOWNSHIP OF RANDOLPH, AND TO ENACT SECTION 15-55 (AFFORDABLE HOUSING DEVELOPMENT FEES) UNDER ARTICLE IV (SUPPLEMENTARY ZONING REGULATIONS) IN CHAPTER XV (LAND DEVELOPMENT ORDINANCES) OF THE ORDINANCES OF THE TOWNSHIP OF RANDOLPH

BE IT ORDAINED, by the Mayor and the Township Council of the Township of Randolph, in the County of Morris, State of New Jersey, that Section 15-91.3 of Article IV of Chapter XV of the Township Ordinances, entitled "Development Fees for Low and Moderate Income Housing" is hereby amended as follows:

SECTION I. Existing Section 15-91.3 (Development Fees for Low and Moderate Income Housing) is hereby repealed.

SECTION II. Section 15-55 (Affordable Housing Development Fees) under Article IV (Supplementary Zoning Regulations) in Chapter XV (Land Development Ordinances) of the Ordinances of the Township of Randolph is hereby enacted as follows:

Section 15-55.1. AFFORDABLE HOUSING DEVELOPMENT FEES

A. Purpose

- 1) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- 2) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a Court approved spending plan may retain fees collected from non-residential development.
- 3) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, C.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:93-8.

B. Basic requirements

- a) This ordinance shall not be effective until approved by the Court pursuant to N.J.A.C. 5:93-8.1(b).
- b) The Township of Randolph shall not spend development fees until the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:93-8.9.

C. Definitions

- 1. The following terms, as used in this ordinance, shall have the following meanings:
 - a. *“Affordable housing development”* means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
 - b. *“Court”* or *“Court approved entity”* means the entity that has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State pursuant to the Supreme Court decision issued in Mount Laurel IV on March 10, 2015.
 - c. *“Development fee”* means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.
 - d. *“Developer”* means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
 - e. *“Equalized assessed value”* means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
 - f. *“Green building strategies”* means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

D. Residential Development Fees

- 1) Imposed fees
 - a. Within all zoning district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half (1.5) percent of the equalized assessed value for residential development provided no increased density is permitted.

b. 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 may be required to pay a development fee of six (6) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

2) Eligible exactions, ineligible exactions and exemptions for residential development

- a. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- b. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- c. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- d. Owner-occupied residential structures demolished and replaced, of equal building area or within 10% larger building area, as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.
- e. Developers of single-family residential structures which are undergoing additions and renovations shall be exempt from paying a development fee, provided the addition is less than 50% of the floor area prior to the expansion. Additions that are greater than 50% of the floor area shall be subject to the fee.

E. Non-Residential Development Fees

- 1) Imposed fees
 - a. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
 - b. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - c. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half (2.5) percent shall be calculated on the difference between the equalized assessed value of the pre-existing 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 non-residential development fee shall be zero.
- 2) Eligible exactions, ineligible exactions and exemptions for non-residential development
 - a. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
 - b. The two and one-half (2.5) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - c. Non-residential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
 - d. A developer of a non-residential development exempted from the nonresidential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - e. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential

development fees under these circumstances may be enforceable by the Township of Randolph as a lien against the real property of the owner.

F. Collection Procedures

- 1) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- 2) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDE "State of New Jersey Non-Residential Development Certification/Exemption". The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- 3) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- 4) Within ninety (90) days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- 5) The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- 6) Within ten (10) business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- 7) Should the Township of Randolph fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- 8) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- 9) Appeal of development fees
 - i. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Randolph. Appeals from a determination of the Board may be

made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

- ii. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Randolph. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

G. Affordable Housing Trust Fund

- 1) A Development Fee Ordinance creating a dedicated revenue source for affordable housing was adopted by the Township on December 23, 2008, by way of Ordinance No. 30-2008; and subsequently amended on July 6, 2010, by Ordinance No. 10-2010. Said Development Fee Ordinance established the Township's Affordable Housing Trust Fund. All development fees and interest generated by the fees are deposited in a separate interest-bearing Affordable Housing Trust Fund at Provident Bank, located at 1185 Sussex Turnpike in the Township of Randolph, for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:93-8.16 as described in the sections that follow and is to be maintained by the Chief Financial Officer.
- 2) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - a. Payments in lieu of on-site construction of affordable units;
 - b. Developer contributed funds to make ten (10) percent of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - c. Rental income from municipally operated units;
 - d. Repayments from affordable housing program loans;
 - e. Recapture funds;
 - f. Proceeds from the sale of affordable units; and
 - g. Any other funds collected in connection with the Township of Randolph's affordable housing program.
- 3) The Township of Randolph shall provide the Court with written authorization, in the form of a three-party escrow agreement between the municipality, Provident Bank, and a Court approved entity to permit the Court to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8.19 and 8.20.
- 4) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

H. Use of Funds

- 1) The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the Township of Randolph's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving, and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8.16 and specified in the approved spending plan.
- 2) Funds shall not be expended to reimburse the Township of Randolph for past housing activities.
- 3) At least thirty (30) percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty (30) percent or less of median income by region.
 - a. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - b. Affordability assistance to households earning thirty (30) percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning thirty (30) percent or less of median income.
 - c. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- 4) The Township of Randolph may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:93-8.16.
- 5) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing

program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

I. Monitoring

- 1) The Township of Randolph shall complete and return to the Court all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township of Randolph's housing program, as well as to the expenditure of revenues and implementation of the plan certified by the Court. All monitoring reports shall be completed on forms designed by the Court.

J. Ongoing Collection of Fees

- 1) The ability for the Township of Randolph to impose, collect and expend development fees shall expire with its substantive certification unless the Township of Randolph has filed an adopted Housing Element and Fair Share Plan with the Court, has petitioned for substantive certification, and has received the Court's approval of its development fee ordinance. If the Township of Randolph fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Township of Randolph shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Township of Randolph retroactively impose a development fee on such a development.

DATE: _____

Donna Luciani
Township Clerk

APPENDIX G.1:
CONSENT ORDER APPROVING 2019 AMENDED SPENDING PLAN,
DATED JANUARY 15, 2020

Keli (Rand-2004A)
Spending Plan Consent Order
12619

Keli L. Gallo, Esq. - ID No. 017672000
THE BUZAK LAW GROUP, LLC
Montville Office Park
150 River Road, Suite N-4
Montville, New Jersey 07045
(973) 335-0600
Attorney for Plaintiff/Petitioner, Township of Randolph

FILED

JAN 15 2020

**Hon. Stephan C. Hansbury
J.S.C. ret., via on recall
Morris County**

IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP
OF RANDOLPH, a municipal
corporation of the State of New Jersey,

Plaintiff/Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MORRIS COUNTY

DOCKET NO.: MRS-L-1640-15

CIVIL ACTION
(Mount Laurel)

CONSENT ORDER

THE MATTER of the approval of an amendment to the Township's spending plan having been raised with the Court during a November 18, 2019 Case Management Conference; and Fair Share Housing Center ("FSHC") having consented to the entry of a Consent Order approving the amendment to the Township's spending plan subject to the review of the same by the Special Master and FSHC; and the Township having supplied the attached spending plan amendment, which proposes to utilize additional monies in the Township's Affordable Housing Trust Fund to fund the environmental remediation of property located at Block 195, Lot 10 in the Township of Randolph which will be conveyed by the Township to Habitat for Humanity for the construction of twenty-five (25) low and moderate income units, to both the Special Master and FSHC; and the Special Master having reviewed and recommended the approval of the spending plan amendment

to the Court; and FSHC having reviewed the spending plan amendment and advised that it has no objections to the approval of the amendment; and for good cause appearing,

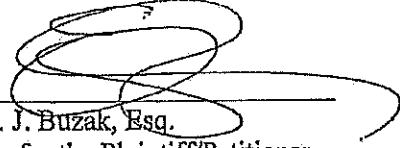
IT IS ON THIS 15 day of January ²⁰²⁰ ORDERED as follows:

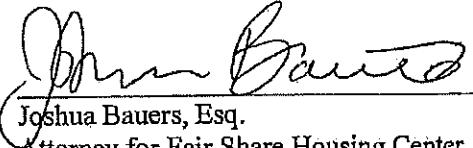
1. The amendment to the Township's spending plan that is attached as Exhibit A to this Order is hereby approved.
2. The approved amendment shall be incorporated in the full revised spending plan to be submitted as part of the final compliance package of the Township.
3. A copy of the within Order shall be served on all parties via eCourts or as otherwise directed by the Court.


Hon. Stephan C. Hansbury, J.S.C.

(T/A on Recall)

I agree with the above Form of Order


Edward. J. Buzak, Esq.
Attorney for the Plaintiff/Petitioner,
The Township of Randolph


Joshua Bauers, Esq.
Attorney for Fair Share Housing Center

**TOWNSHIP OF RANDOLPH
MORRIS COUNTY, NEW JERSEY
AMENDMENT TO SPENDING PLAN
NOVEMBER 2019**

Introduction

The Township of Randolph, Morris County, New Jersey previously prepared a Housing Element and Fair Share Plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301), and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq., N.J.A.C. 5:96-1 et seq., and N.J.A.C. 5:93-1 et seq.). A Development Fee Ordinance creating a dedicated revenue source for affordable housing was initially approved by COAH on May 6, 1992, and adopted by the municipality on June 4, 1992. The Township amended this Ordinance after its initial adoption, by Ordinance No. 6-00 on March 2, 2000 and by Ordinance No. 31-05, on July 7, 2005. The most recent Development Fee Ordinance was approved by COAH on February 24, 2011. The ordinance establishes the Township of Randolph affordable housing trust fund for which this spending plan is prepared.

Amendment to the Spending Plan

The spending plan previously approved by COAH is hereby amended as follows:

1. Under Section 3(a)1 of the 2012 Spending Plan, the Township of Randolph proposed to expend \$1,100,000 towards the "Habitat for Humanity II (a.k.a. 42 Bennett Avenue) 25 unit for sale project".

As part of this Amendment, the Township of Randolph will dedicate an additional \$900,000 to the new construction of a project known as the Habitat for Humanity 100% Affordable project located at Block 195, Lot 10, otherwise known as the E.A. Porter site at 42 Bennett Avenue. This is 2.5 acre tract was formerly used as an industrial site and was acquired in 2008 by the Township through tax foreclosure.

In 2009, the Township entered into an agreement with Habitat for Humanity (the "Agreement"), in which the Township agreed to donate the E.A. Porter property for the construction of twenty-five (25) homes for sale to low and moderate income families as a one hundred (100%) percent affordable project. As part of the agreement, the Township is responsible for environmental remediation, demolition of existing structures, site design, approvals and permitting, while Morris Habitat for Humanity is responsible for the funding the construction of the complex once the property is transferred to their ownership. The Township agreed to contribute \$45,000 per unit towards these costs, and as included in the Township's 2012 Amended Spending Plan, the project had spent \$1,100,000 from the Affordable Housing Trust Fund to assist in the demolition and site treatment work. However, there have been unforeseen site treatment and cleanup requirements to bring the site to residential standards that have changed the initial scope of cost of the project and increased cleanup costs.

The Township intends to expend all additional allocated funding towards the site cleanup as part of the Agreement with Habitat for Humanity. The Township has worked

with Habitat for Humanity previously in the funding and construction of affordable projects within Randolph.

APPENDIX G.2:
2022 AMENDED SPENDING PLAN
(DRAFT, UNADOPTED)

**TOWNSHIP OF RANDOLPH
AFFORDABLE HOUSING TRUST FUND SPENDING PLAN****I. INTRODUCTION**

The Township of Randolph, Morris County, has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need 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). A Development Fee Ordinance creating a dedicated revenue source for affordable housing was initially approved by COAH on May 6, 1992, and adopted by the municipality on June 4, 1992. The Township amended this Ordinance after its initial adoption, by Ordinance No. 6-00 on March 2, 2000 and by Ordinance No. 31-05, on July 7, 2005. The most recent Development Fee Ordinance was approved by COAH on February 24, 2011. The ordinance established the Township of Randolph affordable housing trust fund for which this spending plan is prepared. Finally, this Spending Plan has been prepared as part of the Housing Element and Fair Share plan.

As of August 2022, the Township had a balance of \$257,887 in the Affordable Housing Trust Fund, which is resulting from a cumulative collection of \$2,932,999 and an expenditure of \$2,675,111 from 1992 to present. 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 Provident Bank, located at 1185 Sussex Turnpike in the Township of Randolph, for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:93-8.16 as described in the sections that follow.

1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the remaining Third Round prospective need period (September 2022 - June 2025), the Township 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. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL):

Currently, there are no actual or committed payments in lieu of construction from any developer, although such payments may be collected in the future.

(c) Other funding sources:

Funds from other sources have not been collected.

(d) Projected interest:

Interest on the projected revenue in the municipal Affordable Housing Trust Fund at the current average interest rate 0.50% simple interest.

2. REVENUE PROJECTION

The Township of Randolph, as reported by the New Jersey Department of Community Affairs (NJDCA) Construction Code Reporter, issued thirty (30) permits authorizing the new construction of 1 and 2 family housing units during 2021 – including five (5) 1 and 2 family housing units and twenty-five (25) multi-family units. That same year, building permits for 4,393 square feet of Group A-2 type building space. In the year prior in 2020, the Township issued ten (10) permits authorizing the new construction of 1 and 2 family housing units; as well as, building permits for 400 square feet of office space and 22,326 square feet of educational use.

The Township anticipates issuing permits authorizing approximately sixty (60) units over the balance of the prospective third round period (2022-2025). This estimated projection is based on the fact that in the preceding years from 2018-present, the Township issued permits authorizing the new construction of eighty-three (83) housing units that were largely related to 1 and 2 family and mixed-use housing projects.

The projection of development fees realized from residential development requires the application of the Township's equalization rate and establishment of an average equalized assessed value for housing. The Township's equalization rate for 2021 was 94.55% and the average residential assessment in the Township is \$487,500. Dividing the average value of housing by the equalization rate yields the average equalized assessed value for housing, being thusly \$515,600 ($\$487,500/0.9455$). As this plan assumes the approximate development of an estimated 60 units over the prospective remainder of the Third Round period, the Township may potentially realize a development fee collection of \$464,040 – this is based on the multiplication of average equalized housing value of \$515,600 x 60 units x the residential development fee of 1.5% of equalized assessed value.

The Township may also receive nonresidential development fees pursuant to N.J.S.A. 40:55D-8.1 et. seq, under which a fee equal to (i) 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots; or (ii) 2.5% of the increase in equalized assessed value, of the additions to existing structures to be used for non-residential purposes, is to be paid.

While the Township has collected non-residential development fees since the initial adoption of its Development Fee Ordinance in 1992, more recent date from 2014 to present was used to determine projections for non-residential development fees. The basis for utilizing these years is because they are more recent, and because non-residential development fees were not collected between 2010 and 2013 and the Stimulus Act refunded fees in 2009. Additionally, the Township has been under a Scarce Resource Order since 2018, which has impeded additional non-residential development. Since 2014, non-residential development fees in the amount of \$795,777 have been collected, which represents an average of \$88,420 per year. It is anticipated that the Township will therefore collect \$265,259 through 2025. Any such funds will be used to help fund (i) the Township's Rehabilitation Program, (ii) future affordable housing projects, including future group homes, (iii) Affordability Assistance, and (iv) Administrative costs.

The Township, as of August 2022, had an amount of \$257,887 in the Affordable Housing Trust Fund. When adding the potential development fee collection amount of \$729,299 and account interest of \$3,646 (assuming a 0.50% fixed interest rate), a projected total development fee revenue of \$732,945 results. Combined with the existing funds, this results in a total of \$990,832.

**TABLE 1: PROJECTED REVENUES HOUSING TRUST FUND
TOWNSHIP OF RANDOLPH, MORRIS COUNTY, NEW JERSEY**

SOURCE OF FUNDS	PROJECTED REVENUES-HOUSING TRUST FUND – AUG 2022 THROUGH JUNE 2025				
	AUG 2022	2023	2024	JUNE 2025	
(a) Projected Income					
1. Approved Development					
2. Development Pending Approval					
3. Projected Residential & Non-residential Development		\$243,099	\$243,099	\$243,099	\$729,299
(b) Payments in Lieu of Construction					
(c) Other Funds					
(d) Interest *		\$1,215	\$1,215	\$1,215	\$3,646
Total		244,314	244,314	244,314	\$732,945

*Table assumes a 0.50% fixed interest rate

The Township of Randolph estimates and projects a potential total of approximately \$464,040 in residential development fees, approximately \$265,259 in non-residential development fees, and account interest of approximately \$3,646 (assuming a 0.50% fixed interest rate), for a potential total development fee and other revenues of approximately \$732,945 between present day and June 30, 2025. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

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 Township of Randolph:

(a) Collection of Development Fee Revenues:

Collection of Development Fee revenues shall be consistent with the Township of Randolph's Development Fee ordinance for both residential and non-residential developments in accordance with COAH's rules 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 municipal 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 Municipal Housing Liaison forwards a requisition of affordability assistance and administrative costs (routine expenditures) and rehabilitation expenditures and costs for municipally sponsored 100% affordable housing development (significant expenditures) and accessory apartments 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 Township Council for approval. After receiving Township Council approval, the Township of Randolph Planning and Zoning Administrator releases the requested revenue from the trust fund for the specific use.

4. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Rehabilitation Projects N.J.A.C. 5:93-8.16(a)

The Township's rehabilitation obligation is 33 units. In the past, the Township has participated in the Morris County Department of Community Affairs HOME program for owner-occupied housing rehabilitation. The program uses Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) funding.

Based on the percentage of renter-occupied housing, the number of rental rehabilitations would be approximately 7 units of the total 33-unit obligation. The Township of Randolph will dedicate \$70,000 as hard costs for the rehabilitation of up to 7 rental units. The Township will continue to participate in the Morris County Housing Rehabilitation Program and Morris County HOME Consortium for the rehabilitation of owner-occupied units.

Total Rehabilitation Program Expenditure: **\$70,000.00**
7 units @ \$10,000/unit

(b) Affordability Assistance N.J.A.C. 5:93-8.16(c)

TABLE 2: PROJECTED MINIMUM AFFORDABILITY ASSISTANCE REQUIREMENTS TOWNSHIP OF RANDOLPH, MORRIS COUNTY, NEW JERSEY		
Actual Development Fees through Aug. 2022		\$2,932,999
Development fees projected 2022-2025	+	\$732,945
Interest projected 2022-2025	+	\$3,646
Less housing activity expenditures thru Aug 2022	-	\$2,449,638
	TOTAL	\$1,219,952
30 percent requirement	x 0.30 =	\$365,985
PROJECTED MINIMUM Affordability Assistance Requirement 9/2022 through 6/30/2025	=	\$365,985
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 9/2022 through 6/30/2025	÷ 3 =	\$121,995

The Township of Randolph has dedicated \$2,195,494 from the Affordable Housing Trust Fund to render units more affordable – including \$300,000 towards the creation of a group home with the Special Needs Housing Partnership, and nearly \$2.2 M towards the 25-unit, 100% affordable E.A. Porter/Habitat for Humanity Project. The Township has likely exceeded its Affordability Assistance requirement, but will continue to reserve up the 30% requirement of \$365,985 towards future projects for the creation of new very-low and low-income affordable units, as well as additional surplus funds from this Plan, for up to a total of \$412,387. The Township anticipates using these funds towards the creation of additional low- and very-low income units.

Total Affordability Assistance Expenditure: **\$412,387**

(c) **Administrative Expenses N.J.A.C. 5:93-8.16(e)**

TABLE 3: PROJECTED MAXIMUM ADMINISTRATIVE EXPENSES TOWNSHIP OF RANDOLPH, MORRIS COUNTY, NEW JERSEY		
Development fees/interest collected to date		\$2,932,999
Development fees projected 2022-2025	+	\$732,945
Interest projected 2022-2025		\$3,646
Less RCA Expenditures	-	\$0.00
TOTAL	=	\$3,669,590
20 percent maximum permitted administrative expenses	x 0.20 =	\$733,918
Less administrative expenditures through Aug 2022	-	\$225,473
PROJECTED MAXIMUM ADMINISTRATIVE EXPENDITURES 9/2022 through 6/30/2025	=	\$508,445

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 in rehabilitation programs and 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 Township of Randolph.

The Township projects that no more than \$733,918 will be available from the Affordable Housing Trust Fund to be used for administrative purposes. The Township has expended approximately \$225,473, and therefore, the remaining allowable expenditures are capped up to \$508,445 unless in the future additional development fees above the projected amount are collected.

Total Administrative Expenses Expenditures: **\$508,445**

5. EXPENDITURE SCHEDULE

The Township of Randolph intends to use Affordable Housing Trust Fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the proposed implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows in Table 4.

TABLE 4: PROJECTED EXPENDITURE SCHEDULE 2022 - 2025 TOWNSHIP OF RANDOLPH, MORRIS COUNTY, NEW JERSEY					
Program [Individually list programs and projects e.g. Rehab, Accessory Apartments, for-sale and rental municipally sponsored, etc.].	Number of Units Projected	PROJECTED EXPENDITURE SCHEDULE SEPT 2022 – JUNE 2025			
		2022	2023	2024	2025
Rehabilitation	7	-	\$20,000	\$20,000	\$30,000
Total Programs		-	\$20,000	\$20,000	\$30,000
Affordability Assistance			\$137,462	\$137,462	\$137,462
Administration		\$84,740	\$169,481	\$169,481	\$84,740
Total		\$84,740	\$326,943	\$326,943	\$252,202
					\$990,832

6. EXCESS OR SHORTFALL OF FUNDS

The Township of Randolph acknowledges that the actual amount of the Development Fees 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 fees may be imposed by law; (b) the actual amount of development in the Township may be less than what is anticipated; and (c) developers may choose to provide inclusionary developments in lieu of Development Fees.

In the event that the shortfall exceeds the amount devoted to the rehabilitation of rental units, any shortfall in funds necessary to fund this will be funded by the Township. The Township may take the steps necessary to apply for and obtain funds from the Morris County Home Improvement Grant Program or any other grant program in the amount necessary that may cover the rehabilitation of rental units.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to supplement the Township's Rehabilitation and Affordability Assistance Programs.

II. SUMMARY

The Township of Randolph intends to spend Affordable Housing Trust Fund revenues pursuant to N.J.A.C. 5:93-8.16 and consistent with the housing programs outlined in the Housing Element and Fair Share Plan.

The Township of Randolph had a balance of \$257,887 as of August 2022 and anticipates an additional \$729,299 in revenues over the Third Round prospective need period with interest in the amount of \$3,646, for a total of \$990,832. The municipality will dedicate: a) \$70,000 towards the rehabilitation of Rental Affordable Units, in addition to participation in the County Rehabilitation Program for owner-occupied units) \$412,387 to render units more affordable – which represents additional funding from affordability assistance spending to date; c) and \$508,445 to cover administrative costs. The municipality anticipates that the balance of revenues collected less expenses from September 2022 to June 2025 will be as close to zero dollars (\$0) as possible, whereas any excess funds as described below would be dedicated toward supplementing the rehabilitation of rental affordable units and the creation of new low- and very low-income affordable units, as described herein. Table 5 summarizes the Township's Spending Plan.

TOWNSHIP OF RANDOLPH*Third Round HE&FSP Spending Plan*

TABLE 5: SPENDING PLAN SUMMARY
TOWNSHIP OF RANDOLPH, MORRIS COUNTY, NEW JERSEY

Balance as of Aug 2022	\$257,887
PROJECTED REVENUE 08/2022 – 6/30/2025	
Development fees	+ \$729,299
Payments in lieu of construction	+ \$00.00
Other funds	+ \$00.00
Interest	+ \$3,646
TOTAL REVENUE	= \$990,832
EXPENDITURES	
Funds Used for Rehabilitation & Emergency Repairs	- \$70,000.00
Affordability Assistance	- \$412,387
Administration	- \$508,445
TOTAL PROJECTED EXPENDITURES	= \$990,832
REMAINING BALANCE	= \$0

APPENDIX H.1:
MORRIS COUNTY HOME PROGRAM
INTERLOCAL SERVICES AGREEMENT

**AGREEMENT BETWEEN THE COUNTY OF MORRIS AND CERTAIN
MUNICIPALITIES LOCATED THEREIN ESTABLISHING A COOPERATIVE
MEANS OF CONDUCTING CERTAIN COMMUNITY DEVELOPMENT AND
HOME ACTIVITIES PROGRAM**

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, and Title II of the Cranston-Gonzales National Affordable Housing Act of 1990 provides for substantial Federal funds being made available to certain urban counties for use therein; and

WHEREAS, the Emergency Shelter Grant Program ("ESG") provided through Subtitle B of the McKinney-Vento Homeless Assistance Act permits for substantial federal funds allocated to prevent homelessness and to enable homeless individuals and families to move toward independent living; and

WHEREAS, these Acts established certain criteria which must be met in order for a county to be the recipient of said funding; and

WHEREAS, as required by Federal guidelines, the Morris County Counsel has determined the terms and provisions of this agreement are fully authorized by State and local law and that the agreement provides the County of Morris with full authority consistent with authority delegated by Federal law; and

WHEREAS, the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1 et seq.) provides a mechanism through which counties and municipalities may enter into agreements for the provision of joint services; it is therefore agreed by the County of Morris and the Township of Randolph as follows:

A. Planning Process

1. Nature and Extent of Service

a. Purpose

The purpose of this agreement is to establish a legal mechanism through which the county government may apply for, receive and disburse Federal funds available to eligible urban counties under Title I of the Housing and Community Development Act of 1974, as amended, commonly known as Community Development Block Grant (CDBG) Entitlement Program; and, funds available under Title II of the Cranston-Gonzales National Affordable Housing Act of 1990, commonly known as the HOME Investment Partnership Program; and to take such actions in cooperation with the participating municipalities as may be necessary to participate in the benefits of these programs. Federal funds received by the County shall be for such functions as urban renewal, water and sewer facilities, neighborhood facilities, public facilities, open space, housing and such other purposes as are authorized by these Acts. Nothing contained in this agreement shall deprive any municipality or other unit of local government of any powers of zoning, development control, or other lawful authority which it presently possesses, nor shall any participant be deprived of any state or federal aid to which it might be entitled in its own right, except as herein provided.

b. Establishment of Committee

There is hereby established a cooperative Community Development Committee, consisting of two representatives from each participating municipality and two representatives of county government, each to be appointed for one-year periods coinciding with the calendar year. The governing body and the chief executive officer of each participating agency shall make one appointment each.

Responsibilities of Committee

- (1) The committee may choose to elect a chairperson and shall take formal action only upon a two-thirds vote of the full membership thereof.
- (2) The Director of the Office of Community Development designated as the Administrative Liaison Officer, shall be accountable and subject to the supervision of the Division of Community & Behavioral Health Services. He or she shall, within the limits of resources available, provide technical and administrative support to the Committee.
- (3) The Committee shall meet promptly after its establishment and thereafter as often as required. It shall establish rules of procedures as may be required.
- (4) The Committee shall study and discuss the community development and housing needs of the county which affect the participating local governments and shall determine the most effective and acceptable utilization of CDBG and HOME funds available to the county government. It shall recommend to the Board of Chosen Freeholders applications for participation in Federal funding, and towards that end it shall, in the manner herein prescribed, be authorized to develop required plans and such documents and certifications of compliance as are required by the Federal Government for participation by the County in the programs. Funds applied for may be those available for urban counties for CDBG, and participating jurisdictions for the Home Program.
- (5) The Committee shall develop, in full consultation with the Office of Community Development and all affected agencies of the local governments involved, priorities for the actual utilization of such funds as are made available from the Federal Government under these Titles. The Committee shall recommend for each project or activity to be carried out with these funds a specific means of accomplishment. This may be for the County to carry out the project or function, for a municipality to receive the monies to carry it out, or for some other combination of local or State agencies. Such implementation mechanism shall be established either by means of a separate contract entered into between the County government and the municipality or municipalities in which the activities or functions are to take place, pursuant to the provisions of the Interlocal Services Act, or by inclusion of such information in Section C of this agreement, subject to the same approvals. The implementation mechanism shall be established before submission of the application to HUD, and any relevant documents become part of this agreement and should be submitted to HUD with it.
- (6) Every municipality participating in the Community Development Block Grant and HOME Programs may request participation in the expenditure of Federal funds, comment on the overall needs of the County which may be served through these funds, and otherwise take part in the proceedings of the Committee through its members of the Committee. No project shall be undertaken or services

provided in any municipality without prior notification to the governing body of the municipality and the opportunity for comment by the same body.

Standards of Performance

Every Shared Services Agreement established pursuant to the agreement shall contain standards of performance as required by the applicable federal regulations.

Performance reports shall be prepared for the Committee annually, and they shall be submitted to the Board of Chosen Freeholders as may be required for submission to the Federal Government.

County and all other cooperating cities shall take all actions necessary to assure compliance with the urban county's certification under Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, regarding the National Environmental Policy Act of 1969, the Uniform Relocation Act, the Americans with Disabilities Act of 1990, Title VI of The Civil Rights Act of 1964, the Fair Housing Act, affirmatively furthering fair housing, Title VIII of the Civil Rights Act of 1968, Executive Order 11988, the Fair Housing Act, Section I 09 of Title I of the Housing and Community Development Act of 1974 (which incorporates Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975), and other applicable laws. Use of urban county funds for activities in, or in support of, any cooperating city that does not affirmatively further fair housing within its own jurisdiction or that impedes the county's actions to comply with the county's fair housing certification shall be prohibited. Pursuant to 24 CFR 570.501(b), City is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement as described in 24 CFR 570.503. County, City, all other cooperating cities, metropolitan cities, urban counties, units of general local government, Indian tribes, and insular areas that directly or indirectly receive funds provided under Title I of the Housing and Community Development Act of 1973 as amended, may not sell, trade, or otherwise transfer all or any portion of such funds to another such entity in exchange for any other funds, credits, or non-Federal considerations, but must use such funds for activities eligible under Title I of the Housing and Community Development Act of 1974, as amended.

2. Estimated Cost and Allocation Thereof

The amount of Federal funds involved shall be the amount applied for by the Board of Chosen Freeholders pursuant to the recommendation of the Committee, subject to any modifications made by HUD. Any Federal funds received by letter of credit or otherwise shall be placed in County Trust Funds established and maintained pursuant to regulations promulgated by the Director of the Division of Local Government Service in the New Jersey Department of Community Affairs. These funds shall be in separate bank accounts subject to the control of the County government, which shall be the designated recipient of the funds provided under the Federal Act. Upon authorization by the County and in compliance with State law and promulgated regulations, funds may be expended from the County Trust Funds by the County or by payment to a particular municipality pursuant to a specific contract. Neither the Committee, the County government, nor any participating local government may expend or commit funds except as may be authorized pursuant to this agreement and in full compliance with State and Federal laws and regulations. No participant under

this contract may in a way be obligated to expend funds of its own except as may be mutually agreed in a lawful manner.

3. Duration of Contract

This contract will be effective, starting with the three Federal Fiscal Years 2018, 2019 and 2020 appropriations and will remain in effect until the CDBG (and HOME, where applicable) funds and program income received with respect to activities and all successive qualification periods under this agreement are expended and the funded activities completed.

This agreement will automatically be renewed for participation in successive three-year qualification periods. The County and the participating unit of local government may not terminate or withdraw from the agreement while the agreement remains in effect for each three year qualification period. The County or the municipality may elect not to participate in a new qualification period in three-year intervals, provided written notice is given. A copy of the notice must be sent to the HUD Field Office. By the date specified in HUD's urban county qualification notice for the next qualification period, the urban county will notify the participating unit of general local government in writing of its right not to participate. A copy of the county's notification to the jurisdiction must be sent to the HUD Field Office by the date specified in the urban county qualification notice.

Failure by either party to adopt any amendment to the agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in the Urban County Qualification Notice applicable for the subsequent three-year urban county qualification period, and to submit such amendment to HUD as provided in the urban county qualification notice will void the automatic renewal of such qualification period.

By executing the CDBG cooperation agreement, the cooperating unit of general local government understands that it:

- (a) May not apply for grants from appropriations under the State CDBG Program for fiscal years during the period in which it participates in the urban county's CDBG program; and
- (b) May receive a formula allocation under the HOME Program only through the urban county. Thus, even if the urban county does not receive a HOME formula allocation, the participating unit of local government cannot form a HOME consortium with other local governments. (Note: This does not preclude the urban county or a unit of government participating with the urban county from applying to the State for HOME funds, if the state allows. An existing renewable agreement need not be amended to add this Note. It is included here only for purposes of clarification.); and
- (c) May receive a formula allocation under the ESG Program only through the urban county. (Note: This does not preclude the urban county or a unit of government participating with the urban county from applying to the State for ESG funds, if the state allows. An existing renewable agreement need not be

amended to add this Note. It is included here only for purposes of clarification.)

4. Designation of General Agent

The Administrative Liaison Officer, Director of Community Development, is hereby designated as the administrative agent of the Board of Chosen Freeholders for purposes of compliance with statutory and regulatory responsibilities.

B. Qualifications as Urban County

In addition to such assurances and agreements as may have been made by previously executed ordinances in order to meet the criteria for funding eligibility as an “urban county,” the parties hereto agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities. This agreement shall be effective when a sufficient number of municipalities have signed the contract so that 200,000 population is represented and when all other Federal eligibility criteria for designation as an “urban county” under the Act have been satisfied. In the event that sufficient municipalities to meet these criteria should not sign this agreement within the time period set forth by the United States Department of Housing and Urban Development, the Freeholder Director shall so notify all signators, and the agreement shall thereupon be null and void.

In order to comply with Federal requirements, the County government, through its Board of Chosen Freeholders, shall be the applicant for Community Development and HOME funds and shall take responsibility as applicant and shall have the final responsibility for selecting projects and submitting annual Action Plans. The County shall also have the authority to carry out activities which may be funded starting with Fiscal 2018, 2019 and 2020 appropriations, and for renewal periods thereafter, and from any other program income generated from the expenditure of such funds.

C. Agreement as to Specific Activities (Interlocal Service Agreement)

1. Activities

The municipality hereby agrees to cooperate with the County of Morris in conducting those activities included on Attachment A. Specific projects are set forth in the applications submitted to HUD. The municipality also agrees to the use by the County of certain of the funds to be applied for county planning and administrative costs as also indicated on the accompanying lists.

2. Identification of Participants

a. County

The municipality agrees that the County, as the applicant, takes full responsibility and assumes all obligations of an applicant under the Housing and Community Development Act of 1974, as amended, and the Cranston-Gonzalez National Affordable Housing Act. This responsibility will also extend to parts of the planning and management process, including the analysis of needs, the setting of objectives, the development of the Consolidated Plan and Annual Action Plans, and all

assurances of certifications of compliance with Federal and State requirements necessary under Federal and State laws. The responsibility of the County shall apply to all Community Development and HOME projects whether or not the County or locality carries out directly an activity or activities included in the application.

b. Municipality

As appropriate, certain activities are to be undertaken by the participating municipalities, specifically to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities. A separate grant agreement between the County and municipality must be executed for these projects. The chief executive officer of each municipality is responsible for the implementation of these projects. The municipality further agrees to cooperate with the County in complying with the requirements of the Housing and Community Development Act of 1974, as amended, and the Cranston-Gonzalez National Affordable Housing Act of 1990. Pursuant to 24 CFR 570.501(b), the municipality is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement as set forth in 24 CFR 570.503.

3. Costs

a. Costs of Activities

The cost of Community Development and HOME activities shall be set forth in the applications submitted to HUD. In addition, the municipality may apply for additional funds from other sources and/or appropriate municipal funds, as it deems necessary to successfully carry out the projects.

b. Payment

Payments for the conduct of activities to be carried out by individual municipalities will be made to the municipality on the basis of vouchers signed by the approving authority of the municipality. Such payments will be made to the municipality upon submission by the municipality of appropriate County vouchers and supporting documentation and authorization by the County.

c. Program Income

The municipality must inform the County of any income generated by the expenditure of Community Development Block Grant and HOME funds received. Program income must be paid to the County unless it is agreed in writing that the municipality may retain the income. All program income must be used for eligible activities in accordance with all CDBG requirements as applicable. The County has the responsibility for monitoring and reporting to HUD on the use of any program income received thereby requiring appropriate record keeping and reporting by the municipality as may be needed for this purpose. Any program income on hand or received subsequent to project close-out or change in status of the municipality shall be paid to the County.

4. General Standards of Performance

Activities to be carried out under this agreement shall be performed in accordance with Federal, State and local laws and regulations. In carrying out the activities, the

County will be responsible for contact with other local, State and Federal agencies to prevent duplication of effort and to foster coordination of related activities.

Activities to be carried out by individual municipalities shall be based on detailed work proposals and budget outlines submitted to the County for review. The County Administrative Liaison Officer and other County staff members as may be necessary shall examine the project data submitted to the County and shall grant approval prior to the commencement of any work involved.

The parties hereto agree to take any and all actions pursuant to proper legal means in order to carry out the specific project, the Community Development Program, the HOME Program, the approved Consolidation Plan and to meet all other requirements of the CDBG and HOME Programs and other applicable laws.

5. Standards Applicable to Real Property Acquired or Improved With CDBG Funds
The following standards apply to real property acquired or improved in whole or in part using CDBG funds that is within the control of the municipality:
 - a. The municipality must notify the County of any modification or change in the use of real property from that planned at the time of acquisition or improvement, including disposition;
 - b. The municipality shall reimburse the County an amount equal to the current fair market value (less any portion thereof attributable to expenditures of non-CDBG funds) of property acquired or improved with CDBG funds that is sold or transferred for a use which does not qualify under CDBG regulations; and
 - c. Program income generated from disposition or transfer of property prior to or subsequent to close-out or a change in status or termination of the Cooperation Agreement between the County and municipality must be paid to the County unless otherwise agreed pursuant to Paragraph C.3.c. herein.
6. Time Period
Work on the activities to be carried out directly by municipalities shall commence only upon notification by the County that the funds have been released by HUD. In accordance with HUD regulations, activities included in the annual applications shall be completed or underway in accordance with the respective grant agreement for the project.
7. Availability of Records for Audit
Required records of progress of activities carried out by the County and by individual municipalities will be maintained according to the enabling federal legislation and accompanying regulations, the New Jersey Division of Local Finance and other applicable requirements. All records shall be kept in a manner prescribed by these regulations and shall be available for audit by the proper authorities. Records of activities carried out by the County shall be maintained by the Administrative Liaison Officer of the County, and records of activities carried out by individual municipalities shall be maintained by the municipal clerk of the municipality carrying out the activity. CDBG and HOME funds received by the municipality shall be

audited as part of the municipality's annual audit in accordance with standards applicable to the Single Audit Act.

D. Signators

This contract shall be executed in similarly worded counterparts each of which shall be signed by the Freeholder Director and the chief executive officer of an individual municipality. Each such signator agency agrees to cooperate with all other signators and be bound as if all had signed the same agreement.

E. Modifications

1. Modification of Activity

Should it become necessary to modify or amend the activity of a specific project within the specified costs, or in the event that a modification is requested by a municipality participating in or carrying out an activity, the County, in compliance with the by-laws of the Community Development Committee, may make modifications to a project with the approval of HUD and the concurrence of the municipality or municipalities involved. In the case of alteration of a regional or countywide project, approval of all municipalities in the region or County may be required. Such local approval may take the form of a letter from the chief officer or a resolution of the governing body.

2. Limitation of Modification

Modification of an activity shall not include deletion of a project, substitution of one project for another, or change of the location of a project unless such changes are required by HUD, Federal regulation or State law. Any such modification and/or amendment to the Application for Federal Assistance shall require approval per the by-laws of the Community Development Committee, by the governing body of the municipality, and by resolution of the Board of Chosen Freeholders when required by HUD regulation.

F. Severability

In the event that any portion of this agreement shall be made inoperative by reason of judicial or administrative ruling, the remainder shall continue in effect.

G. Certification

The parties hereto certify that they shall, and they so agree, to take all required actions necessary to assure compliance with the urban county's certification required by Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 109 of Title I of the Housing and Community Development Act of 1974, and other applicable laws.

The parties hereto agree that funding hereunder is prohibited for activities in or in support of any cooperating unit of general local government that does not affirmatively further

fair housing within its own jurisdiction or that impedes the County's actions to comply with its fair housing certification.

The parties hereto agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities.

The parties have adopted and are enforcing:

1. A policy of prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil rights demonstrations; and
2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within the jurisdiction.

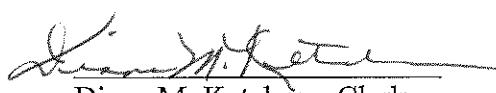
H. Supersession

This agreement shall supplement any previous agreements on this subject and shall replace and supersede any previously agreed upon provisions only to the extent of conflict of purpose.

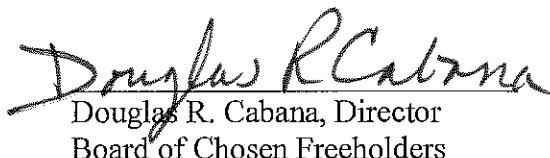
IN WITNESS WHEREOF, the parties have hereunto, pursuant to authorization from properly adopted resolution, executed this agreement on this 18th day of May, 2017.

ATTEST

COUNTY OF MORRIS



Diane M. Ketchum, Clerk



Douglas R. Cabana, Director
Board of Chosen Freeholders

ATTEST



Donna M. Luciani, Municipal Clerk



Christine Carey, Mayor

ATTACHMENT A

ELIGIBLE COMMUNITY DEVELOPMENT BLOCK GRANT ACTIVITIES

- Property acquisition and disposition
- Construction, reconstruction, rehabilitation or installation of publicly owned facilities and improvements including: senior centers, parks, centers for the handicapped, neighborhood facilities, fire protection facilities, parking facilities, street improvements, water & sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways, flood and drainage facilities, solid waste disposal facilities, others
- Clearance activities
- Public services
- Completion of Urban Renewal projects
- Relocation
- Removal of architectural barriers
- Construction, reconstruction, rehabilitation or installation, or acquisition of privately-owned utilities
- Rehabilitation of public residential structures, public housing, modernization, and rehabilitation of private properties
- Acquisition for the purpose of rehabilitation
- Rehabilitation financing
- Planning and urban design activities
- Code enforcement
- Historic preservation
- Economic Development activities
- Activities by private non-profit entities, local development, corporations, or small business investment companies, neighborhood-based non-profit organizations

ATTACHMENT A

ELIGIBLE HOME INVESTMENT PARTNERSHIP (HOME) ACTIVITIES

PER TITLE II OF THE NATIONAL AFFORDABLE HOUSING ACT

HOME funds may be used to provide incentives to develop and support affordable rental housing and home ownership through:

- Acquisition of improved or unimproved property, including standard housing units
- New construction
- Reconstruction on existing foundation
- Moderate rehabilitation less than \$25,000 per unit
- Substantial rehabilitation more than \$25,000 per unit
- Site improvements for housing development
- Conversion from non-residential to residential use
- Demolition when associated with construction
- Tenant Based Rental Assistance
- Soft costs in relation to above activities
- First-Time Homebuyers Assistance
- Administrative activities

APPENDIX H.2:
MORRIS COUNTY HOUSING REHABILITATION PROGRAM
REFERENCE MANUAL

Morris County Housing Rehabilitation Program

Reference Manual

June 16, 2000

Revised June 26, 2002

Revised August 1, 2004

Revised March 1, 2005

Revised April 2, 2013

Revised June 26, 2017

Revised September 11, 2018

Revised October 17, 2018

INTRODUCTION

The Morris County Housing Rehabilitation Program was created by the Morris County Board of Chosen Freeholders in 1975. The Housing Rehabilitation Program is funded by the Community Development Block Grant Program from the U.S. Department of Housing & Urban Development (HUD).

GOAL

The purpose of the Housing Rehabilitation Program is to provide decent housing for low and moderate-income homeowners who reside within the participating municipalities of the Morris County Consortium. In addition, the goal of the Housing Rehabilitation Program is to maintain Morris County's affordable housing stock by correcting code violations and substandard housing conditions. This interest free deferred loan is designed to assist low and moderate-income homeowners rehabilitate their homes and enable them to remain in their affordable housing situation.

This Reference Manual serves as a guide to assist in the administration of the Housing Rehabilitation Program. Amendments may be added due to revisions in regulations and/or procedures.

GENERAL PROGRAM REQUIREMENTS

- The applicant must be a resident of Morris County (except Dover and Parsippany).
- The homeowner must have owned and occupied the house for which they are requesting assistance for a minimum of **one year**.
- The house must have integrity and be in sound condition.

ELIGIBILITY

The eligibility criteria for assistance through the Housing Rehabilitation Program is a two step process. The **first step** is to determine the Income/Ownership eligibility of the proposed **applicant/household**. The **second step** is to determine the eligibility of the proposed **rehabilitation improvements**.

STEP I: APPLICANT ELIGIBILITY CRITERIA

A. LOW/MODERATE INCOME REQUIREMENTS:

In order to be eligible for program participation, an applicant's total household income must be verified to be equal to or less than the current Section 8 low-income limits established by HUD for an equivalent household size.

Household: A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other.

- The household could consist of a single person, a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements.
- Adult children who reside with their parents are considered to be part of the family and their income must be counted in determining the total household income.
- A dependent child who is living outside of the home (e.g. college students) is considered to be part of the family and counted as a household member.

Since all of the persons who reside in the housing unit will benefit from the Housing rehabilitation assistance to the unit and all of the occupants' resources could be brought to bear with respect to paying for the improvements, **the regulations require that the income of all household members must be considered to determine the low/moderate income status of the household.**

HUD SECTION 8 INCOME LIMITS FOR MORRIS COUNTY (revised annually)

Family Size	Moderate Income	Low Income
1	\$50,350	\$33,400
2	\$57,550	\$38,200
3	\$64,750	\$42,950
4	\$71,900	\$47,700
5	\$77,700	\$51,530
6	\$83,450	\$55,350
7	\$89,200	\$59,150
8	\$94,950	\$63,000

Revised: 2018

Income Determination: Income eligibility for this program is determined using HUD's Adjusted Gross Income method. Income earned by all members residing in the household 16 years of age and over must be considered. This includes income received by adults on behalf of minor children for their benefit. The annual household income will be calculated on all household members' and their current incomes at the time of application, based on a 12-month period. Per this definition:

Income Includes: (But is not limited to)

- Gross pre-taxed wages, salaries, tips, commissions, recurrent overtime, bonuses, raises, COLA's, etc.
- Self-employment net business income (after expenses), including proprietorships and partnerships.
- Income from assets such as:
 - Interest received or credited to checking/savings account, money market funds, certificates of deposits, individual retirement accounts (IRAs), KEOGH retirement plans and government bonds.
 - Dividends received, credited or reinvested from ownership of stocks or mutual funds.
 - Net profit from royalties or rental of land, buildings or real estate or roomers or boarders.
 - 6% of asset imputed income of produces little or no interest.
- Social Security or railroad retirement (before Medicare deductions).
- Supplemental Security Income, AFDC, or other Public Assistance payments.
- Retirement, survivor, or disability pensions received on a regular basis. Includes regular income from annuities, IRAs or KEOGH retirement plans - per IRA regulations. ("regular" income refers to a typical, current annual distribution sum that may be equal to or greater then the minimum IRA distribution amount.)
- Any other sources of income received regularly, including:
 - VA pensions.
 - Unemployment compensation.
 - Alimony or child support payments.
 - Regular contributions from persons not living in the household.

- Educational grants and scholarships.
- Other income received on a regular basis (e.g. foster care payments, military family allotments, and foreign pensions).
- Welfare is counted as income
- Penalties or fees for converting financial holdings
- Cash value of an asset

INCOME EXCLUDES:

- Non-cash income such as Food Stamps, rent free housing, health benefits.
- Profit (or loss) of incorporated businesses owned by the applicant.
- Rebates or credits received under Federal or State Home Energy Assistance Programs.
- Income of live-in attendants.
- Refunds or rebates of any kind.
- Withdrawals from savings of any kind counted as an asset for 2 years.
- Capital gains (or losses) from the sale of homes, shares of stock, etc. will not be considered to be less than the fair market value.
- Lump-sum additions to family assets such as inheritances, one-time lottery winnings; insurance settlements.
- Any type of loan, e.g. student loans.
- Casual, sporadic or irregular gifts.

Income Verification: Based on the above definition of income, eligibility will be verified through documents provided by the applicant, as well as third party verification. Household members 18 years of age or over not receiving income must provide documentation of current status. All pertinent documents will be included in the applicant's file.

Potential applicants must submit the following items as verification of their income:

- a) Six current consecutive pay stubs or a letter from their employer stating present salary (please use form provided for third party verification)
- b) A copy of the most recent Federal and/or State Income Tax 1040, W-2 and 1099 forms, including all schedules and pages.

- c) A most recent letter, appropriate reporting form, copies of monthly checks or direct deposit bank statements (6 months worth) verifying benefits, including but not limited to, social security and/or pension. (When the previous year's Social Security 1099 form is provided, the current cost of living increase will be applied to the gross annual amount – including Medicare.)
- d) Current financial institution statements (6 months worth) or 1099 forms verifying interest income from assets. (Current HUD interest rate will be applied when no rate is noted).
- e) A copy of a statement showing current IRA/401K retirement account balances. (Current HUD interest rate will be applied when no rate is noted).
- f) A copy of the Separation/divorce agreement or copies of support checks.
- g) Copies of unemployment compensation, Welfare, disability, workmen's compensation, or other assistance checks.
- h) A copy of rental checks, Lease Agreement or a letter from tenant(s).
- i) A letter or appropriate reporting forms verifying any other sources of income claimed by applicant.

In addition, **Form 4506**, "Request for a copy of Transcript of Tax Form" will be mailed out with every application should Community Development need to verify income with the IRS.

Income Analysis: All applicants' household income will be reviewed for income eligibility based upon the documentation they submitted with their application plus any additional verification that may be requested.

- When calculating income eligibility, emphasis will be on the household members' current pay stubs, in addition to the most recent Income tax return submitted will serve as further validation of their annual income.
- If an applicant's current income differs drastically from their income tax return, the applicant must submit ample proof to substantiate their current income situation.
- *Overtime* earnings that are a predictable component will be included in determining an applicant's annual income. When *overtime* earnings are sporadic, only the actual

current, year to date overtime earned will be counted in figuring an applicant's annual income.

- An income analysis will be performed to determine eligibility and will forward the application to the Director of Community Development Programs for review.

Allowable Deductions:

- IRA deduction
- Medical savings account deductions
- Moving expenses
- $\frac{1}{2}$ of self-employment taxes
- Self-employment health insurance deductions
- Keogh and Self Employment SEP and SIMPLE plans
- Penalties on early withdrawal of savings
- Paid alimony
- If disabled \$400 deduction
- If elderly over 62, \$400 deduction
- Under age 18 years \$480 from annual income.
- If full-time college student, \$480 deduction from annual income

B. OWNERSHIP REQUIREMENTS:

1. Clear Ownership: Potential applicants must be the owner for over one year and the occupant of the housing unit to be rehabilitated. A copy of the recorded Deed to the property must be submitted with their application as proof of ownership.

- Additional owners of the property who are listed on the Deed but who do not reside in the housing unit must submit proof they do not reside in the unit.

Verification shall include, but not be limited to:

- A copy of the death certificate if the co-owner is deceased.
- A copy of the Divorce/Separation Settlement Agreement stating the ownership status of the housing unit.
- Proof of absentee co-owners' different residence.

- A copy of a probated Will must also be submitted if a Deed transfer cannot verify the potential applicant's ownership.
- In addition, co-owners not residing in the housing unit must sign an "Absentee Homeowner Waiver" form provided by our office. This waiver gives the co-owners' permission for work to be done on the property and releases the co-owners from any financial liability.
- The applicants' ownership in the property must be unrestricted, without evidence of any pending foreclosure proceedings, tax liens or other encumbrances.

2. Primary Residence: The applicant's housing unit must be the owners' principal residence. When proof of primary residence is relevant, a copy of the applicant's Federal Income Tax return will determine their primary residing jurisdiction.

3. Dwelling Unit Requirements: The housing structure to be rehabilitated can be a single or a multi-family (one-to-four unit) privately owned, pre-existing structure.

- Individually owned condominium units, cooperative units and manufactured homes are eligible.
- Mobile homes are not eligible for assistance unless the unit and land are formally "deeded" to the owner.
- The housing unit must be a residential dwelling unit. Mixed-use commercial/residential properties are not eligible for Housing Rehabilitation assistance.
- Rental units of an income eligible, owner occupied 2 – 4 unit structure can be assisted if the tenants' meet income guidelines or the rent is set at an affordable low/moderate income level. Generally, a rent that is 30% or less of the tenants' gross income is considered affordable. If a rental unit is not eligible for assistance, improvements specific to that rental unit cannot be funded through this program except for common area and system wide improvements to the structure. The percentage of the cost of common area and system wide improvements equal to the percentage of unassisted units shall be paid by the owner.

- **C. APPLICANT APPROVAL:**

Applications that have been received by the Housing Rehabilitation Program will be reviewed for completeness in accordance with the above guidelines. Additional documentation will be requested when needed to make the application complete. A complete, potentially eligible application will be submitted for review and final Step I approval. Upon approval by the Director, a letter will be sent to the homeowner advising them of their income eligibility and their placement on the waiting list for a property inspection by our office to determine work eligibility. Income approved homeowners with **emergency situations** will immediately proceed to Step II, for further eligibility determination.

Eligible applicants are not guaranteed they will obtain funding through the Housing Rehabilitation Program.

STEP II: PROPERTY REHABILITATION ELIGIBILITY CRITERIA

A. SUBSTANDARD PROPERTY REQUIREMENTS:

In order to qualify for Housing Rehabilitation assistance, the housing unit must be determined to be substandard.

Substandard: A housing unit is considered *substandard* when health and safety code violations exist and that abating those code violations requires that one or more major system must be replaced or extensively repaired.

Major Substandard Determination: Substandard eligibility for this program is determined by the presence of deficiencies in at least one major system. Per this definition, substandard deficiencies must exist in one or more of the following major systems: (but is not limited to).

- Roof
- Electrical
- Plumbing (including wells)
- Sanitary Plumbing (including septic systems)
- Heating
- Load bearing Structural Systems
- Handicapped Accessibility
- Lead Paint
- Energy Conservation (insulation/deteriorated windows or no storm windows)
- Overcrowding or health hazards
- Severely deteriorated siding, porches or steps.

Rehabilitation needs of a lesser or secondary priority may **only** be considered subsequent to substandard determination.

Property inspections: All approved applicants will be required to submit their properties to an on-site inspection by the Housing Rehabilitation Supervisor. An appointment will be made by the Housing Rehabilitation Supervisor to complete an inspection of the applicant's home. This inspection will ascertain the existence of substandard deficiencies in at least one major system of the home.

- After the property inspection, the Housing Rehabilitation Supervisor will prepare a Property Inspection Report, work write-up and cost estimate.
- The Property Inspection Report will define the rehabilitation work to be undertaken to correct the major substandard deficiencies, as well as other eligible improvements necessary to bring the unit up to code within the program guidelines.

B. REHABILITATION APPROVAL:

The Housing Rehabilitation Supervisor will create the work write-up. Documentation from Municipal Building Officials, Health Officers, Homeowner Insurance Agencies, Public Utility Companies and other agencies may assist in determining rehabilitation eligibility when necessary. Upon Step II approval by the Housing Rehabilitation Supervisor, a case will follow the outlined program procedures to provide for rehabilitation of the housing unit.

C. LEAD BASED PAINT REGULATIONS:

All homeowners will be given the Federal booklet entitled “Protect Your Family From Lead In Your Home” at the first inspection from the Rehab Supervisor. During the on-site inspection, the Supervisor will ascertain and note whether the proposed rehabilitation work will be disturbing any areas of painted surfaces.

Rehabilitation Work Not Disturbing Painted Surfaces (EXEMPT):

Rehabilitation work that will not be disturbing any painted surfaces is **EXEMPT** from the lead-based paint regulations and can proceed normally as outlined in the “General Program Procedures.”

Rehabilitation Work that Will be Disturbing Painted Surfaces:

- a) As determined by the Rehab Supervisor, if the proposed rehabilitation work will disturb less than then the de minimis, the work is **EXEMPT** from the lead-based paint regulations.
- b) If the proposed work is under \$5,000 but it will disturb over the de minimis of painted surfaces, the Lead-based Paint Regulations and Strategies must apply.

- c) As determined by the Housing Rehabilitation Supervisor, if the proposed rehabilitation work is over \$5,000 and is disturbing painted surfaces, the Lead-based Paint Regulations and Strategies outlined below must be followed.

Lead Based Paint Strategies:

- a) The Housing Rehabilitation Supervisor prepares a Property Inspection Report.
- b) The Housing Rehabilitation Supervisor forwards a copy to a lead-based paint risk assessor to arrange for a lead-based paint inspection/risk assessment.
- c) The Housing Rehabilitation Supervisor contacts the lead-based paint risk assessor to coordinate with the homeowner for an on-site assessment/inspection of their property.
- d) A written report that specifies areas that need to be addressed is provided to the Housing Rehabilitation Supervisor by the lead-based paint risk assessor.

Note: *If the assessment determines there are **no** lead-based paint hazards present, the rehabilitation work is **exempt**.*

- e) The Housing Rehabilitation Supervisor prepares a revised Property Inspection Report that incorporates lead-paint based hazard areas that must be corrected. Generally, the lead-based paint hazard work is the first priority on the Property Inspection Report, unless an emergency code violation is present.
- f) Copies of the revised Property Inspection Report are reviewed by the Housing Rehabilitation Supervisor and mailed to the homeowner for them to secure three (3) written estimates on the non lead-based paint proposed work.
- g) A copy of the Safe Work Practice contractor list will be attached to the revised Property Inspection Report to assist the homeowner in obtaining at least three (3) written estimates from Safe Work Practice contractors to address the lead-based paint scope of work.
- h) A specific "Safe Work Practice Contract" will be used for all construction jobs dealing with lead-based paint effected jobs.
- i) The Safe Work Practice contractor is responsible to assure his/her workers conform to all safe work practices on the site.

- j) Once the Safe Work Practice contractors have finished the job and properly cleaned the site, Community Development will call for a “Clearance Inspection” to be performed by the risk assessor.
- k) The cost of the first clearance inspection will be paid by Community Development.
- l) If the work-site/unit fails the first clearance inspection, the cost for subsequent clearance inspections will be deducted from the contractor’s final payment due from Community Development.
- m) Once the lead-based paint hazard work has been addressed and received clearance, the remaining non lead-based paint work can proceed as normal.
- n) Contractors first time working with “safe practices” will be allowed a one time waiver for the cost of a second clearance.

GENERAL PROGRAM PROCEDURES

A. PROPERTY INSPECTIONS AND WORK WRITE-UPS:

Upon the on-site inspection of the eligible property, the Housing Rehabilitation Supervisor will prepare an organized typed property inspection report, which will precisely define the rehabilitation work to be undertaken. The write-up will include the required technical specifications and will specify the construction needed to correct deficiencies and health hazards.

The property inspection report will include the qualifying substandard rehabilitation work, as well as, other eligible rehabilitation improvements.

Eligible Improvements: Priority will be health and safety problems affecting:

1. Plumbing	4. Roof
2. Heat-energy	5. Structural Repairs
3. Lead-based paint hazards	6. Electrical

Rehabilitation needs of a lesser or secondary priority may include:

1. Exterior painting	4. Floors
2. Insulation	5. Other
3. Windows/doors	

Ineligible Improvements: Certain improvements are not eligible through the Housing Rehabilitation Program. Generally, ineligible improvements are repairs that are not health or safety related. Additionally, ineligible improvements include, but are not limited to:

1. Strictly cosmetic and aesthetically related improvements.
2. The purchase of free-standing appliances (not including stoves).
3. The payment of local assessment or connection fees associated with authorized utility connections.
4. Nonessential premise repairs such as driveways, fencing, landscape structures and plantings.
5. Improvements considered being routine maintenance items.

At the time of the on-site inspection, the cost estimator will also perform a visual Environmental review to assess if the property is located in a Flood Zone, is impacted by excessive noise, or may be historically significant. The Supervisor's findings will be corroborated by the National Flood Plain maps and the Morris County Heritage Commission's listing of historical properties. Both reference sources are maintained in the Office of Community Development office. The cost estimator's findings will be noted in each case file.

B. COST ESTIMATING:

Subsequent to the property inspection and work write-up the Supervisor will develop a professional estimate of reasonable cost, based on the scope of work as is the case work write-up.

C. BIDDING REQUIREMENTS:

The income approved homeowner will be advised by the Supervisor to obtain three written proposals based upon the scope of work outlined in the property inspection report.

- It is the homeowner's responsibility to contact contractors of their choice, solicit estimates and submit the estimates to our office.
- The Housing Rehabilitation Program cannot solicit estimates on behalf of a homeowner.
- The Housing Rehabilitation Program can assist the homeowner in securing estimates by providing the homeowner with a list of contractors who have satisfactorily participated in our Housing Rehabilitation Program.
- Any qualified contractor can participate in our program provided they:
 - a.) carry liability and workmen compensation insurance
 - b.) are licensed as required by local code (if applicable)
 - c.) are not on the federal debarred list
 - d.) provide their Federal Identification number along with a W-9 for tax purposes.
- When an approved homeowner is unable to solicit contractor bids, staff will try to arrange third party intervention to assist the homeowner in getting bids.
- The homeowner will be required to submit at least three (3) estimates per phase of rehabilitation work proposed. A minimum of two (2) estimates will be accepted in emergency or hardship situations, upon supervisory approval.
- Upon approval for the homeowner to perform the labor and the Housing Rehabilitation Program to pay for the materials, the homeowner must submit three (3) estimates for the materials needed. If the approved materials needed are less than \$999 the homeowner can purchase the materials without securing estimates and submit the receipts to the program for reimbursement.
- The Housing Rehabilitation Program may reject any and all contractor bids if the bids received exceed the Supervisor's assessment by 20% or more, or if collusion is suspected.

D. CONTRACTOR SELECTION:

Once the bid documents from two or more contractors are received, the homeowner will be counseled with respect to selecting the low bidder. Generally, the lowest responsible bidder shall be selected. If the homeowner desires a higher bidder, the

homeowner will be responsible to pay the amount over and above the lowest bidder's quote.

Construction Agreement: A construction agreement will be written up by the cost estimator and will be given to the homeowner. The contract documents are to be signed by and between the homeowner and the contractor. The Housing Rehabilitation Program acts an administrative agent to provide technical assistance through the construction period.

- The construction agreement will stipulate the contract price, the time of performance, the payment schedule, the holdback and final payment, procedures for termination of contract, as well as reference to the contractor's original bid specifications and warranties.
- The Housing Rehabilitation Supervisor must approve any revisions to the original scope of work under contract. Change orders will be required for work that results in an increase or decrease in the contract amount.

E. CONSTRUCTION INSPECTIONS:

If warranted, the Housing Rehabilitation Supervisor will conduct an onsite pre-construction conference with the homeowner and the contractor to discuss the scope of work and the terms and conditions of the contract.

- Once the construction agreement and the lien agreement are signed, the contractor may begin construction.
- It will be the contractor's responsibility to obtain all required permits and to arrange for all necessary inspections with the local building inspector.
- It is the homeowner's responsibility to let our office know at least two days in advance when the contractor is scheduled to begin the job.
- The Housing Rehabilitation Supervisor will make periodic inspections to monitor the progress of the property improvements.
- The contractor must notify the Housing Rehabilitation Program of any changes that may occur during construction **BEFORE** the work is done. The Housing Rehabilitation Supervisor will attempt to conduct emergency inspections to verify and approve major revisions.

- When emergency inspections are not possible, the Supervisor may approve change orders upon proof the revisions were necessary and were done.
- The Housing Rehabilitation Supervisor will perform a final inspection to certify the required property improvements are complete. He/she will also determine if the structure has been brought up to program, municipal and Section 8 Minimum Property Standards and will note each case file accordingly.
- The local construction official may also conduct final inspections and approvals when mandated by local code, or as required by supplemental funding programs.

F. PAYMENTS:

- Payment in the form of a dual party check to the Homeowner/Contractor will be made, as provided in the Construction Agreement, with a minimum 10% retained. (Safe Work Practice construction agreements require a 50% retainage until final lead-based paint hazard clearance is obtained).
- The check will be given to the homeowner for disbursement to the contractor.
- Final payment to the homeowner/contractor will be made upon all necessary local inspections and approvals.

G. FINAL INSPECTIONS:

The Housing Rehabilitation Supervisor will conduct a final inspection to certify that the required property improvements are complete. The Director of Housing and Community Development Programs will conduct site visits of completed cases, if necessary. At the final inspection, determination will be made whether the structure has been brought up to program, municipal and Section 8 Minimum Property Standards. The determination will be noted on each case file.

H. COMPLAINT RESOLUTION PROCEDURES:

Attempts to resolve property homeowner and rehabilitation contractor complains/disputes will be mediated by the staff.

- Minor complaints may be directed to the Housing Rehabilitation Supervisor for intervention or resolution.

- Major complaints/disputes should first be directed to the Rehabilitation Supervisor for mediation.
- If not satisfactorily resolved, the complaint should proceed to:

First The Director of Housing and Community Development
Development Programs
Second HUD Area Office in Newark, NJ.

Every attempt will be made to resolve complaints and disputes in an equitable manner.

I. GRANT AMOUNTS AND ADDITIONAL FUNDING SOURCES:

The maximum Community Development Housing Rehabilitation Program assistance to any one unit may not exceed **\$30,000.00**. An activity that involves Lead Safe Work Practices is capped at **\$24,999.00** for the Lead Safe Work Practices portion of the job. If additional dollars are required to complete necessary code related work the program will try to secure supplemental funding. The following steps must be taken to seek additional funding:

1. The Housing Rehabilitation Supervisor must approve the need for additional funding.
2. Requests for other funding sources should be directed to the Housing Rehabilitation Supervisor.
3. The Housing Rehabilitation Supervisor will research other funding sources which may assist the homeowner.

J. UTILITY WATER/SEWER HOOK-UPS

Community Development can provide financial assistance toward the cost of water/sewer hook-ups from the main line in the street to individual eligible applicants' homes. Community Development cannot provide assistance toward the cost of water/sewer assessment or connection fees.

Community Development will provide a grant of 100% of the cost of hook-up to eligible very low, low/moderate income applicants whose incomes fall below 80% of the HUD Section 8 income limits.

K. RECORD KEEPING:

Separate files will be maintained on all approved Housing Rehabilitation clients. The Housing Rehabilitation Supervisor will be responsible for maintaining the client files.

Mandatory records kept in each client file will include:

Original homeowner application	Construction Agreements
Income verification documentation	Copies of checks
Copy of the deed	Progress Report Form
Income determination form	Environmental Assessment Form
Work write-ups with costing	Lead-based paint notification form
Contractor estimates and change orders	Lien agreement
	Case memo log form

In addition to the hard copy records and documents the identical data will be kept on a computerized record keeping database system. Computerized database records will also be kept on the number of intakes to the program and the number of ineligible or inactive clients served.

SECUREMENT OF FUNDS

Lien Criteria: Funding through the Morris County Housing Rehabilitation Program will be in the form of a deferred payment loan and will be secured by a lien on the homeowner's property. All liens will be recorded in the Deed Book of the Morris County Clerk's Office once the final payment has been disbursed. The date of the final check is considered the close out date of the file. The term for each lien begins with the Morris County Clerk's Office recorded date.

The term of each lien is based on the loan amount given, as follows:

Up to \$1,000.	No lien necessary
\$1,001- \$5,000.	6 Year lien
\$5,001. and over	10 Year lien

The loan will be forgiven completely if the homeowner resides in the unit for the term of the loan, and the lien will be formally discharged of record. If the property is sold or transferred within the term of the lien, the loan shall become payable in full upon the date of such sale or transfer. There are no per diem interest or fees should be property be sold prior to the term of the lien. The amount due and payable will be reviewed and based on the dollar amount of the work completed to bring the property up-to-code.

Subordination of Liens: The Housing Rehabilitation Program will postpone or subordinate our lien status to subsequent mortgages under the following circumstances:

- The proceeds of the new loan are required to make additional major repairs to the property; consolidate debts; refinance for more favorable terms; or to avert foreclosure proceedings.
- The homeowner continues to occupy the home as their primary residence.
- There remains sufficient equity in the home to satisfy our lien repayment.
- The homeowner must contact the Office of Community Development Housing Rehabilitation Program to verify the integrity of the new mortgage loan.
- The Housing Rehabilitation Program will agree to subordinate the same lien a maximum of three (3) times within the life of the lien. Afterward, the homeowner will be required to repay the Community Development grant in order to secure subsequent mortgages.

Legal Document Preparation: All legal documents pertinent to the Office of Community Development will assure securing of grant funds. Original recorded lien documents will be securely stored in this same office.

- **Lien Agreements** will be prepared by our office and must be signed by the homeowner(s) and notarized. The Acknowledgement and Receipt of Grant Proceeds And Consent To Imposition of Lien will be recorded at the Morris County Clerk's Office.

- ***Release*** and ***Postponement of Liens*** will be prepared by the Office of Community Development and forwarded to the Morris County Counsel with a copy of the applicable recorded lien and a Resolution for their execution by the Morris County Board of Chosen Freeholders. Upon execution by the Freeholders, the executed documents will be recorded with the Morris County Clerk's Office.
- Liens prepared will self destruct when they expire, without necessity of preparing, executing and recording formal Lien Releases.

SOURCE OF FUNDING

The source of funding, requirements and usage are listed below:

<u>Source of funds:</u>	<u>Requirements:</u>	<u>Usage of Funds:</u>
<i>Morris County</i>		
<i>Community Development</i>		

Grant monies are awarded yearly from the Department of Housing and Urban Development (HUD) for the Housing Rehabilitation Program.	<ol style="list-style-type: none"> 1. Income/ownership eligible per program guidelines. 2. One major code Code violation must be evident, per programs. 	Individual client funds are vouchered directly by the Office of Community Development for payment through the Housing Rehabilitation account set-up with the Morris County Treasurer's Office. Rehab Vouchers will be reviewed and signed by the Director Of Housing and Community Development Programs.
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APPENDIX I:
MAP OF AFFORDABLE HOUSING SITES

