

## **Housing Element and Fair Share Plan**

### **Borough of Eatontown Monmouth County, New Jersey**

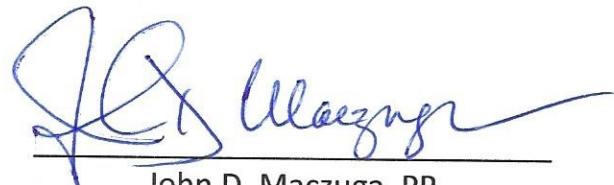
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## Table of Contents

1.0	Introduction.....	i
2.0	Analysis of Demographic, Housing and Employment Characteristics.....	5
2.1	Eatontown's Demographics.....	5
2.2	Eatontown's Housing Stock.....	6
2.3	Eatontown's Employment Characteristics.....	9
3.0	Municipal Fair Share Obligation.....	11
4.0	Compliance Plan.....	12
4.1	Rehabilitation Obligation.....	12
4.2	Prior Round Obligation.....	12
4.2.1	Prior Round Compliance Plan Caps and Requirements.....	16
4.3	Third Round Compliance Plan .....	17
4.3.1	Third Round Compliance Plan Caps and Requirements.....	21
5.0	Additional Fair Share Plan Components .....	23
5.1	Spending Plan .....	23
5.2	Affirmative Marketing Plan.....	23
5.3	Reporting Requirements .....	24
5.4	Amendments to Affordable Housing Ordinances.....	24

## **List of Tables**

Table 1: Population Trends, 1990-2010 .....	5
Table 2: Demographic Indicators, 2010 .....	6
Table 3: Population by Age, 2010 .....	6
Table 4: Housing Characteristics, 2010.....	8
Table 5: Housing Affordability as a Percentage of Household Income, 2013–2017 .....	9
Table 6: Occupation of Employed Civilian Population Aged 16 and Over, 2013–2017 ....	9
Table 7: Household Income, 2013–2017.....	10
Table 8: Prior Round Compliance Plan Summary .....	13
Table 9: Third Round Compliance Plan Summary.....	17

## **List of Appendices**

Appendix A: Settlement Agreement
Appendix B: April 25, 2019 Order of the Court
Appendix C: Supportive and Special Needs Housing Survey - 155 South Street
Appendix D: Eatontown Monmouth Mall, LLC - Resolution of Approval
Appendix E: Affirmative Marketing Plan

## **1.0 — INTRODUCTION**

In response to the enactment of the Fair Housing Act in 1985, which included the creation of the Council on Affordable Housing (COAH) and the adoption of rules by COAH that established municipal fair share affordable housing obligations and provided regulations governing how municipalities were to address this municipal fair share affordable housing obligation, the Borough in 1987 amended its Master Plan to include a Housing Element and Fair Share Plan (HE&FSP) and petitioned COAH for substantive certification. The Borough, however, did not complete the COAH substantive certification process. Notwithstanding the Borough's housing stock diversity and affordable housing activities, which included the creation of a local senior citizen housing corporation, the development of 196 affordable units (Meadowbrook I) and the adoption of rent stabilization ordinances, two Mount Laurel "builder's remedy" lawsuits were filed in 1999. Following the appointment by the Court of a Special Master, the Borough adopted a HE&FSP in 2000 addressing its 1987 to 1999 COAH mandated affordable housing obligation. The Borough subsequently enacted an affordable housing development fee ordinance and created an affordable housing trust fund to support the Borough's affordable housing activities.

A settlement agreement was reached in the first builder's remedy lawsuit in 2002 (approved by the Court on April 10, 2003) and the second in 2004 (approved by the Court on November 2, 2005). On November 22, 2004 the Borough adopted a new HE&FSP, which addressed its affordable housing obligation, including the implementation of the terms of the two settlement agreements. The 2004 HE&FSP, including its Spending Plan, was approved by the Court as part of the Final Judgment of Compliance and Repose that was issued by the Court on November 2, 2005. The Court determined the 2004 HE&FSP discharged and otherwise satisfied the Borough's prior-round (1987 to 1999) affordable housing obligation and granted repose from further Mount Laurel litigation until December 15, 2005 to allow the Borough to address the conditions set forth in the Final Order and to adopt a HE&FSP to address its third-round affordable housing obligation.

Per the Final Judgment, on November 28, 2005 the Borough adopted a HE&FSP addressing the third-round obligation. The Court, by Order dated February 6, 2006, extended the Borough's

immunity. Though the Borough has been continuously been under the protection of the Court since 1999, beginning in 2005 changing COAH regulations, affordable housing legislation, and a series of Mount Laurel Court decisions put municipal compliance into an extended period of flux and change.

The Appellate Division decision, in 2007, overturned COAH's methodology for determining third-round affordable housing obligations and directed COAH to redetermine state-wide, regional and municipal affordable housing needs and develop new rules. In October 2008, COAH adopted new rules and established new municipal third-round obligations and further established a deadline of December 31, 2008 for all municipalities to submit plans addressing the new third-round obligation. On December 22, 2008, the Eatontown Planning Board adopted and amended HE&FSP to address its entire affordable housing obligation pursuant to the 2008 COAH rules. On May 4, 2009, the Court issued an Order extending the protections provided under its February 3, 2006 Order in order to provide the Court and Special Master the opportunity to review the Borough's 2008 HE&FSP.

On October 10, 2010, the Appellate Division invalidated substantial portions of COAH's 2008 rules, including the methodology for determining municipal obligations for the period from 1999 to 2018, thereby leaving the third-round obligations of all municipalities throughout the State as undetermined. The 2010 Appellate decision effectively suspended the compliance review of municipal third-round plans throughout the State. In December 2010, the Court continued the Borough's protections under the previous May 4, 2009 Order.

Notwithstanding its "undetermined" third-round obligation, the Borough continued to pursue affordable housing activities aimed at addressing some portion of its undetermined third-round obligation. In 2011, the Court issued an Order approving 100 "new construction" affordable housing credits for affordable units at the Pine Tree Mobile Home Park. The Order also approved the expenditure of \$250,000 from the Borough's affordable housing trust fund for the affordable units at the Pine Tree Mobile Home Park.

In January 2012, the Borough filed a motion seeking prior-round Final Judgment and Compliance and Repose that would include various changes to the a number of affordable housing sites that were developed subsequent to the 2005 Final Judgment, including the Pine Tree Mobile Home Park and a stay of an additional third-round housing obligation until third-round rules were in place. On January 25, 2013, Judge Jamie S. Perri, J.S.C. entered an Order for a Temporary Stay of Third Round Proceedings and Temporary Immunity from Lawsuits with Subsequent Judgment of Compliance and Repose. The Order was subject to 12 conditions set forth in Philip Caton's, Special Master's Report dated December 17, 2012. The Borough prepared a HE&FSP bearing the date of July 2013 and addressing the 12 conditions. By letter from Philip Caton, PP, FAICP, Special Master and dated October 18, 2013, the Borough was advised that the conditions were "mostly satisfied" and the Borough should proceed with adoption of the July 2013 HE&FSP and the Eatontown Planning Board adopted same on December 9, 2013. The immunity granted pursuant to the January 25, 2013 Order was subsequently extended by Order entered June 5, 2013.

The New Jersey Supreme Court, in its decision of March 2015, In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), transferred the evaluation of municipal compliance with the Mount Laurel doctrine from COAH to the trial courts. On July 7, 2015, the Borough filed a motion for a Declaratory Judgment (IMO Eatontown, County of Monmouth, Docket No. MON-L-2522-15) seeking the declaration of the Court of its compliance with the Mount Laurel doctrine and the Fair Housing Act (N.J.S.A. 53:27D-301 et seq.) in accordance the Court's Mount Laurel IV decision. Fair Share Housing Center, Inc. (FSHC) was granted intervenor status by the NJ Supreme Court in Mount Laurel IV.

After the filing of the Declaratory Judgment action, the Borough and FSHC participated in a number of conferences and with the assistance of the Court's Special Master, Philip Caton, PP, FAICP ultimately reached a settlement agreement with the FSHC. This agreement, hereinafter referred to as the Settlement Agreement, is dated December 17, 2018 and signed by both FSHC and the Borough, and is attached hereto as Appendix A. The Settlement Agreement sets forth the Borough's present need (rehabilitation), prior-round (1987-1999) and third-round (1999-2025) fair share obligations and a preliminary compliance plan to address the obligations.

The Settlement Agreement, and the preliminary compliance plan for the period from 1987 to 2025 that is contained therein, were the subject of a Fairness and Compliance Hearing before the Honorable Jamie S. Perri, J.S.C. on March 19, 2019. Based upon the testimony of the Court Master and the recommendations set forth in his report entitled *Master's Report for a Mount Laurel Fairness and Preliminary Compliance Hearing, Borough of Eatontown, Monmouth County, New Jersey, IMO Application of the Borough of Eatontown, Docket No. MON-L-2522-15*, Judge Perri entered an Order dated April 25, 2019. Said Order, which is attached hereto as Appendix B, approved the Settlement Agreement, the obligations established, compliance mechanisms therein, and contained a further finding that the Borough's preliminary compliance plan is facially constitutionally compliant and provides a fair and reasonable opportunity for Eatontown to meet its obligation under Mount Laurel IV, subject to the conditions set forth in the Order.

This HE&FSP is intended to: demonstrate satisfaction of the Borough's affordable housing obligations and the other provisions and conditions established pursuant to the Settlement Agreement and Judge Perri's April 25, 2019 Order; and, following a Final Compliance hearing, scheduled for September 17, 2019, receive Final Judgment of Compliance and Repose for the period 1987 to 2025.

## **2.0 — ANALYSIS OF DEMOGRAPHIC, HOUSING AND EMPLOYMENT CHARACTERISTICS**

In accordance with the provisions of the Fair Housing Act and applicable regulation, this HE&FSP contains the following discussion of the Borough's demographic, housing, and economic characteristics. The information provided in this section has been compiled from the US Census Bureau and the New Jersey Department of Labor and Workforce Development.

### **2.1 — Eatontown's Demographics**

At the time of the 2000 US Census, the Borough of Eatontown had a population of 14,008 residents (Table 1). This figure represents a 1.5 percent increase over the 13,800 residents that were counted at the time of the 1990 US Census. Since the time of the 2000 US Census, however, the Borough of Eatontown's population has declined considerably. This is demonstrated by the US Census Bureau's 2010 population count of 12,709 residents, which represents a 9.3 percent decline in population in the Borough between 2000 and 2010. This decrease in population appears to be the result of the closure of Fort Monmouth, which began in 2006.

**Table 1: Population Trends, 1990-2010**

	<b>1990</b>	<b>2000</b>	<b>2010</b>	<b>% Change 1990-2000</b>	<b>% Change 2000-2010</b>
<b>Borough of Eatontown</b>	13,800	14,008	12,709	1.5%	-9.3%

Source: US Census Bureau (1990, 2000 and 2010)

In the period after the 2010 US Census, Eatontown's population has continued to decline. This is demonstrated by the 2018 population estimate of the US Census Bureau, which indicates that the Borough's population was 12,242 residents. This represents a 3.7 percent decrease in population in the Borough since the time of the 2010 US Census.

According to the 2010 US Census, the Borough's population is composed of 5,319 households (Table 2). The Borough's average household size of 2.32 is less than both the County's and the State's. It is noted that the Borough's percentage of population that is 65 years or older, 14.0 percent, is higher than the percentages that are represented at the County and State levels. The median household income of Eatontown Borough, which was most recently estimated to be \$66,470 with the 2013-2017 five-year estimates of the United States Census Bureau's American

Community Survey Program, is significantly lower than the estimated median household income at the County and State levels. In addition, the median age of 39.6 years that describes Eatontown's residents is slightly higher than at the State level and lower than at the County level.

**Table 2: Demographic Indicators, 2010**

	Number of Households	Average Household Size	Median Age	% of Population $\geq 65$ years	Median Household Income*
<b>Borough of Eatontown</b>	5,319	2.32	39.6	14.0	\$66,470
<b>Monmouth County</b>	233,983	2.66	41.3	13.8	\$87,297
<b>New Jersey</b>	3,214,360	2.68	39.0	13.5	\$73,702

Source: US Census Bureau

Note: (\*) US Census Bureau (2012-2016 American Community Survey 5-Year Estimates)

With regard to the age-structure of the Borough's population, the 2010 US Census reported that there were 751 pre-school age children in Eatontown, which was 5.9 percent of the total population (Table 3). School age children accounted for 2,272 residents, or 17.9 percent of the total population. Working age individuals accounted for 7,912 residents, or 62.3 percent of the total population. Finally, those aged 65 years or older accounted for 1,774 residents, which equated to 14.0 percent of the 2010 population.

**Table 3: Population by Age, 2010**

		Number	% of Total
<b>Pre-School Age</b>	<b>Under 5 Years</b>	751	5.9
	<b>5 to 9 Years</b>	684	5.4
<b>School Age</b>	<b>10 to 14 Years</b>	718	5.6
	<b>15 to 19 Years</b>	870	6.8
<b>Working Age</b>	<b>20 to 24 Years</b>	798	6.3
	<b>25 to 34 Years</b>	1803	14.2
	<b>35 to 44 Years</b>	1694	13.3
	<b>45 to 54 Years</b>	2023	15.9
	<b>55 to 64 Years</b>	1594	12.5
<b>Senior Age</b>	<b>65 Years and Older</b>	1774	14.0

Source: US Census Bureau

## 2.2 — Eatontown's Housing Stock

According to the 2010 US Census, Eatontown had a total of 5,723 housing units (Table 4). This was a decrease of 610 units since the 2000 US Census. The closure of Fort Monmouth would

appear to be the leading cause of this decrease. Of the total number of housing units in existence at the time of the 2010 US Census, 5,319 units, or 92.9 percent, were identified as occupied; owners occupied 54.9 percent of these units, while renters occupied 45.1 percent. The percentage of renter-occupied units is significantly higher than at the County level, where 25.1 percent of all occupied housing units are occupied by renters. At the time of the 2010 US Census, there were 404 vacant units, which amounted to 7.1 percent of the total of 5,723 housing units; just 38 of the vacant units, or 0.7 percent were for seasonal, recreational or occasional use.

The 2010 US Census reported an average household size in Eatontown Borough of 2.32 persons, and an average family size of 3.02 persons. Of the total number of households, family households accounted for 3,136, or 59.0 percent, and non-family households<sup>1</sup> accounted for 2,183, or 41.0 percent.

A total of 24.7 percent of the Borough's housing stock was estimated to have been constructed before 1960, and the estimated median year of construction was 1973. The median year of construction is more recent than that of the County and of the State, where it is 1972 and 1967, respectively.

In addition to the above, it is noted that the Borough's housing stock is in good condition. This is evidenced by the fact that, according to 2013-2017 five-year estimates of the US Census Bureau's American Community Survey Program, no occupied housing units lacked complete plumbing facilities, and that 0.8 percent of occupied housing units lacked complete kitchen facilities. It is also noted that 168, or 3.2 percent, of the occupied units reported overcrowded conditions (1.01 occupants or more per room), according to 2013-2017 five-year estimates of the US Census Bureau's American Community Survey Program.

Regarding housing values, it is noted that the median value of the owner-occupied housing units in Eatontown was estimated to be \$329,800. This is less than the County median value of \$396,200

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<sup>1</sup> A non-family household is present when a householder lives alone, or when the householder shares the home exclusively with people to whom he or she is not related.

and greater than the State median value of \$321,100. Eatontown Borough's median gross rent of \$1,167 is also significantly lower than the County and State median gross rents of \$1,315 and \$1,249, respectively. The basis of the information contained in this paragraph is the 2013-2017 five-year estimates of the US Census Bureau's American Community Survey Program

**Table 4: Housing Characteristics, 2010**

	<b>Number</b>	<b>% of Total</b>
<b>Housing Units</b>		
Number of Units	5,723	100.0
Occupied Housing Units	5,319	92.9
Vacant Housing Units	404	7.1
Number of Units (2000)	6,333	100.0
<b>Occupancy/Household Characteristics</b>		
Number of Households	5,319	100.0
Persons Per Household	2.32	N/A
Family Households	3,136	59.0
Non-Family Households	2,183	41.0
<b>Year Structure Built*, ***</b>		
2014 or Later	105	1.8
2010 to 2013	53	0.9
2000 to 2009	325	5.6
1990 to 1999	437	7.6
1980 to 1989	1,255	21.7
1970 to 1979	1,056	18.3
1960 to 1969	1,112	19.3
1950 to 1959	762	13.2
1940 to 1949	138	2.4
1939 or Earlier	528	9.1
<b>Condition of Units*, ***</b>		
Lacking Complete Plumbing Facilities	0	0.0
Lacking Complete Kitchen Facilities	40	0.8
<b>Home Value (Owner-Occupied Units)*, ***</b>		
\$2,000,000 or More	7	0.3
\$1,500,000 to \$1,999,999	0	0.0
\$1,000,000 to \$1,499,999	0	0.0
\$500,000 to \$999,999	366	13.3
\$250,000 to \$499,999	1679	60.9
\$0 to \$249,999	705	25.6
<b>Median Value</b>	<b>\$1,314,400</b>	<b>N/A</b>
<b>Median Gross Rent *, **, ***</b>		
<b>Median Gross Rent</b>	<b>\$1,167</b>	<b>N/A</b>

Source: US Census Bureau

Note: (\*) US Census Bureau (2013-2017 American Community Survey 5-Year Estimates);

(\*\*) Detail of value distribution unavailable.

(\*\*\*) Total of 2013-2017 American Community Survey 5-Year Estimates may differ from 2010 US Census totals.

Housing units that have a monthly cost of less than 30 percent of gross household income are

considered to be affordable. In the Borough of Eatontown, a total of 67.0 percent of all owner-occupied housing units and 48.3 percent of renter-occupied housing units were estimated to be affordable (Table 5).

**Table 5: Housing Affordability as a Percentage of Household Income, 2013-2017**

	Number	% of Total
<b>Selected Monthly Owner Costs</b>		
≤ 19.9%	1240	45.0
20% to 29.9%	606	22.0
30% or More	911	33.0
Not Computed	0	0.0
<b>Gross Rent</b>		
≤ 19.9%	577	22.8
20% to 29.9%	599	23.7
30% or More	1216	48.1
Zero or Negative Income	92	3.6
No Cash Rent	44	1.7

Source: US Census Bureau (2013-2017 American Community Survey 5-Year Estimates)

## 2.3 — Eatontown's Employment Characteristics

The 2013-2017 five-year estimates of the US Census Bureau's American Community Survey Program indicate that 6,501 of Eatontown Borough's residents aged 16 and over were employed in the labor force, with 6,486 residents employed in the civilian labor force and 15 residents employed in the armed forces. Of those who are employed in the civilian labor force: 37.9 percent are in management, professional, and related occupations; 17.4 percent are in service occupations; 29.0 percent are in sales and office occupations; 8.2 percent are in natural resources, construction, extraction, and maintenance occupations; and, 7.6 percent are involved in production, transportation, and material moving occupations.

**Table 6: Occupation of Employed Civilian Population Aged 16 and Over, 2013-2017**

	Number	% of Total
Management, Professional, Related	2,458	37.9
Service	1,130	17.4
Sales, Office	1,878	29.0
Natural Resources, Construction, Extraction, Maintenance	530	8.2
Production, Transport., Material Moving	490	7.6

Source: US Census Bureau (2013-2017 American Community Survey 5-Year Estimates)

In 1999, the median household income in Eatontown was \$54,259. While no precise recording of

median household income at the municipal level has been released subsequent to 1999, the US Census Bureau has estimated that from 2013 through 2017<sup>2</sup>, the Borough of Eatontown's median household income had risen to \$66,470<sup>3</sup>. At first glance this may seem like an increase. However, it is noted that when the median household income of 1999 is inflation-adjusted to represent 2017 dollars, it is revealed that the median household income has actually decreased by slightly more than 20 percent<sup>4</sup>.

**Table 7: Household Income, 2013-2017 (Average Characteristics, in 2017 Inflation-Adjusted Dollars)**

	Number	% of Total
< \$10,000	319	6.0
\$10,000 to \$14,999	274	5.2
\$15,000 to \$24,999	468	8.9
\$25,000 to \$34,999	412	7.8
\$35,000 to \$49,999	656	12.4
\$50,000 to \$74,999	748	14.2
\$75,000 to \$99,999	820	15.5
\$100,000 to \$149,999	812	15.4
\$150,000 to \$199,999	342	6.5
\$200,000 or More	434	8.2

Source: US Census Bureau (2013-2017 American Community Survey 5-Year Estimates)

With regard to the number of jobs that are located within the Borough, it is noted that the New Jersey Department of Labor and Workforce Development indicates that there was an average of 13,955 jobs located within the municipality during 2017, which is the latest data available. This represents a decrease of approximately 7.9 percent over the 2007 average of 15,154 jobs. The Department of Labor and Workforce Development's basis for this information is jobs that are covered by public unemployment and disability insurance.

<sup>2</sup> 2013-2017 five-year estimates of the US Census Bureau's American Community Survey Program are based on data collected over a five-year time period. The estimates represent average characteristics between January 2013 and December 2017 and do not represent a single point in time.

<sup>3</sup> This is expressed in 2017 inflation-adjusted dollars.

<sup>4</sup> The 1999 median household income of \$54,259 has the same purchasing power as \$80,072 in 2017.

### **3.0 — MUNICIPAL FAIR SHARE OBLIGATION**

Pursuant to the December 17, 2018 Settlement Agreement approved by Judge Perri's April 25, 2019 Order, the Borough's fair share obligation for the period from 1987 to June 30, 2025 is comprised of three components as follows:

- Present Need (Rehabilitation Obligation): 112 units
- Prior Round (1987-1999) Obligation: 504 units
- Third Round (1999-2025) Obligation: 382 units

In accordance with the Court-approved Settlement Agreement, implementation of the HE&FSP will satisfy the Borough's fair share housing obligation through June 30, 2025.

## **4.0 — COMPLIANCE PLAN**

The following sections demonstrate and detail the satisfaction of the three components of the Borough's affordable housing obligation for the period from 1987 through June 30, 2025.

### **4.1 — Rehabilitation Obligation**

Per the Court-approved Settlement Agreement, the Borough's 2010 rehabilitation obligation is 112 units. Per prior Court Order, 15 rehabilitation credits were approved in the Pine Tree Mobile Home Park and two (2) additional units were rehabilitated since 2010 as part of the Borough's previous participation under the Monmouth County Housing Rehabilitation Program, thereby resulting in a remaining 95-unit rehabilitation obligation. The Borough of Eatontown will address its remaining 95-unit rehabilitation obligation through the creation of a municipal low- and moderate-income housing rehabilitation program to be administered and operated by an experienced qualified local affordable housing rehabilitation program consultant. The Borough has issued a Request for Proposal from qualified firms to serve as Administrative Agent for the Housing Rehabilitation Program. Duties of the Housing Rehabilitation Program Administrative Agent are to include preparation of the program manual and affirmative marketing plan, as well as all administrative and operational aspects of the program. Eligible properties will include substandard housing units occupied by low- and moderate-income owners and renters. The program is to be funded through the Borough's Affordable Housing Trust Fund.

### **4.2 — Prior Round Obligation**

Per the Court-approved Settlement Agreement, the Borough's prior-round (1987-1999) obligation is 504 units. This is met through the mechanisms described in Table 8, Prior Round Compliance Plan Summary.

**Table 8: Prior Round Compliance Plan Summary**

Mechanism	Affordable Units	Rental Bonus Credits	Total Credits
<b>Age-Restricted Rental Units</b>			
Meadowbrook I	124	—	124
<b>Non-Inclusionary Family Rental</b>			
Spring House	1	—	1
Pine Tree Manor Mobile Home Park	13	—	13
<b>Inclusionary Family Rental</b>			
Stony Hill	132	116	248
Mill Pond	13	—	13
<b>Non-Inclusionary Family Sale</b>			
Pine Tree Manor Mobile Home Park	72	—	72
<b>Alternative Living Arrangements</b>			
CPC Mental Health/Heritage House	5	5	10
Collaborative Support	4	4	8
Special Needs Partnership	4	—	4
Spring House	5	—	5
<b>Credits Without Controls</b>			
Credits Without Controls	6	—	6
<b>Totals</b>	<b>379</b>	<b>125</b>	<b>504</b>

On November 2, 2005, the Court issued an Order of Final Judgment and Repose approving the conditions the Borough's 2004 Prior Round HE&FSP, including Spending Plan. All affordable units listed in the Borough's prior round compliance plan (above) are built and occupied. The following describes the various components of the Borough's prior round compliance plan and documents the Borough's entitlement to the crediting claimed toward its 504-unit prior round obligation:

### **Meadowbrook I**

Meadowbrook I is an existing multi-family, 100-percent affordable age-restricted rental complex containing a total of 196 units. This facility is operated by the Eatontown Senior Housing Corporation. The project received a certificate of occupancy on June 12, 1981 and was funded through the Section 8 Housing Assistance Payments Program of the U.S. Department of Housing and Urban development (HUD). All units in Meadowbrook I must be low-income units with 30 percent of the units restricted to very low-income individuals or families. The HUD contract and the resulting income restrictions are renewable in five-year increments for a period of up to 40 years. The Borough's claim to 196 credits was granted pursuant to the 2005 Final Judgment of

Compliance and Repose. The Borough claims 124 of the 196 units toward its prior round obligation, and the remaining 72 units toward its third-round obligation as subsequently described in this HE&FSP.

### **Spring House**

The complex located at 155 South Street is operated by the Affordable Housing Alliance and includes a detached single-family dwelling that is rented, currently by a moderate-income family. The complex also includes an existing 5-bedroom group home and a 7-unit supportive housing facility. The entire facility has 30-year affordability controls. Documentation of the entitlement to the crediting for this development are contained in Appendix C.

### **Pine Tree Mobile Home Park**

Per Order dated February 16, 2011, the Court approved a total of 85 new construction credits (72 for-sale units and 13 rental units), plus 15 rehabilitation credits for affordable units in the Pine Tree Mobile Home Park, which is owned and was developed by the Affordable Housing Alliance. The Borough contributed \$250,000 from its affordable housing trust fund toward the project. The current rent roll indicates there are a total of 115 affordable units in the mobile home park, including 18 rental mobile home units and 97 owner-occupied mobile home units. Current rent roll information documenting the continued eligibility of the units for crediting will be provided to the Court Master prior to any forthcoming Final Compliance Hearing.

### **Stony Hill**

Stony Hill is an inclusionary, 376-unit, multi-family rental development containing a total of 132 affordable family rental units. Pursuant to the Borough's 2005 Judgment of Compliance and Repose, the Court recognized as eligible for credit all of the 132 affordable family rental units and issued a total of 116 rental bonus credits.

### **Mill Pond**

The Mill Pond development is a built and occupied inclusionary development in the southwest portion of the Borough on Frankel Way. The development consists of a total of 118 total units in seven buildings. The units are non-age restricted, for-sale condominiums, a total of 13 of which

are low- and moderate-income units, including seven (7) low-income units and six (6) moderate-income units. Documentation for verification of the credit worthiness of the 13 individual units will be provided to the Court Master prior to the forthcoming Final Compliance Hearing.

#### **CPC Mental Health/Heritage House**

The Borough claims five (5) credits and five (5) rental bonus credits for this existing 5-bedroom group home serving very low-income households. The facility is operated by CPC Mental Health. The ten (10) credits claimed by the Borough for this facility were recognized by the Court under the 2005 Judgment of Compliance and Repose.

#### **Collaborative Support**

The Borough claims four (4) credits and four (4) rental bonus credits for this existing group home, which serves very low-income households. The facility is operated by Collaborative Support Programs. The eight (8) credits claimed for this facility were recognized by the Court under the 2005 Judgment of Compliance and Repose.

#### **Special Needs Partnership**

The Borough claims four (4) credits for this existing 4-bedroom group home developed under the Department of Community Affairs Special Needs Housing Partnership Program. The Borough contributed \$250,000 from its affordable housing trust fund toward the project, which is licensed by the Department of Human Services and operated by Enable, Inc. Documentation in support of the claim for crediting will be submitted to the Court Master prior to the Final Compliance Hearing.

#### **Spring House Group Home**

As cited above, the Spring House complex, located at 155 South Street, operated by the Affordable Housing Alliance, contains a 5-bedroom group home serving low-income households. This group home facility is operated by Legacy Treatment Services. The five (5) credits for this facility claimed by the Borough were recognized by the Court under the 2005 Judgment of Compliance and Repose. Updated documentation is provided in Appendix C.

### **Credits Without Controls**

COAH Rule [N.J.A.C. 5:93-3.2(b)] permits municipalities to claim crediting for units that were constructed and occupied during the 1980-1986 time period but lacking affordability controls, provided that the municipality can document that the unit is in sound condition, is currently (i.e., at the time crediting is sought) occupied by a low- or moderate-income household, and has a market value or monthly rent that is affordable to low- or moderate-income households. Such credits are referred to as credits without controls. The Borough conducted a survey of credits without control in accordance with the COAH rule and determined that six (6) units qualified for such crediting. The 2005 Judgment of Compliance and Repose granted the Borough six (6) credits without controls units.

#### **4.2.1 -- Prior Round Compliance Plan Caps and Requirements**

##### **Rental Obligation**

Per COAH rule, the Borough's rental obligation is calculated as follows: rental obligation = 0.25 (prior round obligation) = 0.25 (504) = 126 units. The Borough's prior round compliance plan includes 301 rental units, which is well in excess of the 126 unit minimum. COAH rules require a minimum of 50 percent of the Borough's rental obligation to be family-rental units. A total of 177 of the 301 rental units are family rental units, which is well in excess of the 63-unit minimum family rental requirement established pursuant to COAH rules.

##### **Rental Bonus Credits**

Per COAH rule, the number of rental units eligible for one-for-one rental bonus credits is limited to qualifying family rental units up to the municipal rental obligation. As cited in the preceding section, the Borough's minimum prior round rental obligation is 126 units. As illustrated in Table 8, the Borough's prior round obligation compliance plan claims 125 one-for-one rental bonus credits consistent with COAH rules.

##### **Maximum Age-Restricted Units**

Per COAH rule, the maximum number of age-restricted affordable units to address its prior round obligation is calculated pursuant to the following: Maximum age-restricted units = 0.25 (prior round obligation minus transferred RCA unit) = 0.25 (504-0) = 0.25 (504) = 126 units. As

illustrated in Table 8 the Borough's prior round compliance plan includes 124 age-restricted units (Meadowbrook I) consistent with COAH rules.

#### **4.3 — Third Round Obligation**

Per the Court-approved Settlement Agreement, the Borough's third round (1999-2025) obligation is 382 units. Table 9 enumerates how the Borough will address its 382-unit third round obligation.

**Table 9: Third Round Compliance Plan Summary**

Mechanism	Total Units	Affordable Units	Rental Bonus Credits	Total Credits
<b>Prior Round Credits Carried Forward — Age-Restricted Rental Units</b>				
Meadowbrook I	72	72	—	72
<b>Age-Restricted Rental Units</b>				
Meadowbrook II	53–82	0–82	—	—
Artis Senior Living	68	7	—	7
Brightview Senior Living	177	10	—	10
<b>Non-Inclusionary Family Rental</b>				
Spring House	7	7	—	7
<b>Inclusionary Family Sale</b>				
Howard Commons (Fort Monmouth)	275	55	—	55
Lakeview Townhomes	15	3	—	3
Parcel B (Fort Monmouth)	302	60	—	60
<b>Inclusionary Family Rental</b>				
Monmouth Mall Mixed-Use Development	700	88	88	176
Sun Eagles (Fort Monmouth)	75	15	8	23
<b>Totals</b>	<b>307–389</b>	<b>96</b>	<b>413</b>	

As noted in Table 9 the Borough seeks crediting for 413 affordable units toward its 382-unit third round obligation. Such crediting would result in a 31-unit surplus, to either be carried forward to satisfy a future affordable housing obligation beyond 2025 or applied toward any shortfall in the third round should any of the proposed inclusionary projects in the Borough's compliance plan not ultimately generate the number of affordable units contemplated above. The various components of the Borough's third round compliance plan are described below.

#### **Meadowbrook I**

As described in the preceding section, the Borough claims crediting for the remaining 72 age-restricted rental units in the existing 196-unit Meadowbrook I project, not claimed in the prior

round (i.e. 124 units claimed in prior round, and 72 units in third round).

### **Meadowbrook II**

Notwithstanding the inclusion of the Meadowbrook II site both as part of its third round compliance plan in the Settlement Agreement (23 units) and in the compliance plan set forth above, the Borough does not seek crediting for any units in this development at this time. The Eatontown Senior Citizen Housing Corporation, following a Request for Qualifications (RFQ), is working with a qualified developer in an effort to secure financing and construct additional age-restricted multi-family rental units at this site. No timetable for the project has been established. The Borough will continue to work with and support the Senior Citizen Housing Corporation in order to construct additional affordable age-restricted units at this location. However, given the Borough's claim for crediting that already exceeds by 21 units its third round obligation without a claim for any units in Meadowbrook II, the Borough does not intend to adopt a resolution of intent to bond in the event that outside funding is not available to develop the project nor pursue alternative compliance mechanisms to offset Meadowbrook II units in the event the project is ultimately deemed to not represent a realistic opportunity for the production of affordable housing as proposed. Given the Borough's third round age-restricted unit cap of 96 units, the maximum number of credits the Borough would be entitled to claim for the Meadowbrook II project toward its third round obligation would be 14 units.

### **Artis Senior Living**

On February 12, 2019 the Eatontown Zoning Board of Adjustment approved a use and bulk variances and site plan approval for the Artis Senior Living development. The project consists of a one story, 36,777 square foot building to house a 68-bed memory care, assisted living facility on a 4.18-acre site located at 147 Grant Avenue (Block 2002, Lot 59). In accordance with Department of Health licensing requirements ten (10) percent of the beds, seven (7), must be set aside for Medicaid recipients. Based upon the findings in the resolution granting site plan approval, the project site is available, approvable, suitable and developable as defined by COAH rules and, therefore represents a reasonable opportunity for the development of affordable housing as proposed in the Borough's third round compliance plan and supports the Borough's claim for seven (7) credits for this project. The resolution of approval of the Artis Senior Living facility will be provided to the Court Master prior to the Final Compliance Hearing.

### **Brightview Senior Living**

On July 10, 2019 the Eatontown Zoning Board of Adjustment approved a use variance and site plan approval for the Brightview Senior Living development. The project consists of 177 units, consisting of 54 assisted living beds, 35 dementia beds and 88 congregate care units on 8.45 acre property (Block 2002, Lots 1&2) located at the southwest quadrant of the intersection of Wycoff Road and Route 36. The 89 assisted living and dementia units have a total of 100 beds. In accordance with Department of Health licensing requirements, ten (10) percent of the 100 beds (i.e., ten [10]) in the assisted living and dementia units must be set aside for Medicaid recipients. Based upon the findings contained in the existing site plan approval, the project site is available, approvable, suitable, and developable as defined by COAH rules and, therefore, represents a reasonable opportunity for the development of affordable housing as proposed in the Borough's third round compliance plan, the Borough claims ten (10) credits for the very low-income beds in the proposed Brightview Senior Living facility. The resolution of approval of the project is scheduled to be acted upon on August 12, 2019. A copy of the resolution of approval will be provided to the Court Master prior to the Final Compliance Hearing. Based upon the foregoing the site is available, approvable, suitable, and developable and, therefore, represents a reasonable opportunity for the development of affordable housing as proposed. The Borough claims 10 credits for this project.

### **Spring House Supportive Housing**

As described in previous sections, the Affordable Housing Alliance Spring House complex located at 155 South Street, includes an existing multi-family apartment building consisting of 7 one-bedroom rental units restricted to low and very-low income residents with disabilities and previously homeless. The facility was completed in 2016 and received \$100,000 from the Eatontown Affordable Housing Trust Fund. The Mental Health Association provides supportive services to the residents. The Borough claims seven (7) low-income credits for the units at this facility. Appendix C provides additional documentation.

### **Howard Commons/Parcel B/Sun Eagles (Fort Monmouth)**

By statute, the Fort Monmouth Economic Revitalization Authority (FMERA) controls land use

regulations in those areas of Eatontown that were formerly part of Fort Monmouth. The Fort Monmouth Reuse and Redevelopment Plan that was developed by FMERA codified land use regulations for such areas. The Borough maintains limited land use authority, primarily subdivision and site plan review. The Fort Monmouth Reuse and Redevelopment Plan includes three (3) separate residential areas within Eatontown Borough, specifically the Howard Commons, Parcel B and Sun Eagles properties.

The Reuse and Redevelopment Plan provides zoning to permit: 276 total units of which 55 (i.e., 20 percent) are required to be set-aside as affordable units on the Howard Commons site; 302 total units of which 60 (i.e., 20 percent) are required to be set aside as affordable units on the Parcel B site; and, 75 total units of which 15 (i.e., 20 percent) are required to be set aside on the Sun Eagles site.

All three sites: are controlled by FMERA; have been the subject of environmental studies; are zoned for residential use as proposed; and, are being actively marketed. Although none of three sites are currently under a Purchase and Sale and Redevelopment Agreement, recent discussions with FMERA staff indicate there are active negotiations between FMERA and redevelopers on all three (3) sites. Based upon the foregoing, all three sites are available, approvable, suitable and developable as defined by COAH rules and therefore represent a reasonable opportunity for the development of affordable housing as proposed in the Borough's third round compliance plan. The Borough claims the following crediting for these projects: 50 credits for affordable units at Howard Commons; 60 credits for affordable units at Parcel B; and, 15 credits for affordable units at Sun Eagles.

#### **Monmouth Mall Mixed Use Redevelopment**

The Borough's third round compliance plan includes 88 family rental units and 88 rental bonus credits for the proposed reuse/redevelopment of the existing Monmouth Mall site. On September 16, 2016, the Borough Council adopted Ordinance 10-2016, which created the Mixed-Use Regional Center (MURC) Zone. The MURC Zoning permits the redevelopment of the existing mall site to include mixed use buildings containing up to a maximum of 700 family rental units, of which 12.5 percent (i.e., 88) are required to be set aside as affordable units.

By resolution dated August 20, 2018, the Eatontown Planning Board granted preliminary and final major site plan approval with variances to Eatontown Mall, LLC for the redevelopment of the existing Monmouth Mall site. The site plan approval includes a variety of uses including retail, food hall, food market, restaurant, entertainment, medical office in addition to 700 residential units, 88 of which are to be set aside for low – and moderate-income households. Appendix D contains a copy of the resolution of approval.

Based upon the foregoing, the site is available, approvable, suitable and developable as defined by COAH rules and, therefore, represents a reasonable opportunity for the development of affordable housing as proposed. The Borough claims 88 credits and 88 rental bonus credits (i.e., 176 total credits) for this proposed development.

### **Lakeview Townhomes**

By resolution dated April 8, 2019 the Eatontown Zoning Board of Adjustment approved use and bulk variances and site plan approval of the Lakeview Townhome development. This inclusionary development consists of fifteen (15) townhomes, three (3) units of which are to be set aside as affordable units, on a 2.57 acre property located at 74 Tilton Avenue (Block 401, Lot 19). Based upon the findings contained in the resolution of approval it can be concluded that the site is available, approvable, suitable, and developable as defined by COAH rules and, therefore represents a reasonable opportunity for the development of affordable housing as proposed. The Borough claims three (3) credits for the proposed affordable units in the Lakeview Townhomes development. The resolution of approval for the Lakeview Townhomes development will be provided to the Court master prior to the Final Compliance Hearing.

#### **4.3.1 Third Round Compliance Plan Caps and Requirements**

##### **Third Round Age-Restricted Units**

Utilizing N.J.A.C. 5:97-3.10(c)2 as the basis for determining the maximum number of age-restricted units that the Township may claim toward its third round obligation, the Borough can claim up to a maximum of 96 age-restricted units. This is determined as follows: *Age-Restricted Maximum = 0.25 × Third Round New Construction Obligation = 0.25 × 382 = 96 Units.*

The Borough's third round compliance plan contains a total of 89 age-restricted units (72 units in Meadowbrook I, 10 units within the Brightview Senior Living development, and 7 units in the Artis Senior Living development), and therefore, is below the 96-unit age-restricted unit cap.

### **Third Round Rental Obligation**

Utilizing N.J.A.C. 5:93-5.15, the Township's rental obligation is calculated as follows:  $0.25 \times \text{Calculated Need} = 0.25 \times 382 = 96 \text{ Units}$ . The Borough's third round compliance plan, which is set forth in Table 9, includes 199 rental units (viz., Meadowbrook I, Brightview Senior Living, Artis Senior Living, Spring House Supportive Housing, Monmouth Mall Mixed Use Redevelopment, and Sun Eagles projects) and, therefore, substantially exceeds the minimum rental requirement. The Borough's third round compliance plan provides 110 family rental units, well in excess of the 48-unit minimum requirement.

### **Third Round Rental Bonus Credits**

Utilizing N.J.A.C. 5:93-5.15(d), the Township may claim rental bonus credits for rental units up to its rental obligation of 96 units. As detailed in Table 9, the Borough claims one-for-one rental bonus credits for 88 family rental units in the Monmouth Mall Mixed Use Redevelopment project and for 8 family rental units in the Sun Eagles project, for a total of 96 rental bonus credits.

### **Very Low-Income Housing Requirement**

The July 2008 amendments to the New Jersey Fair Housing Act (P.L. 2008, c.46) and the FSHC Settlement Agreement provide that a minimum of 13 percent of the low- and moderate-income units developed in a municipality shall be "reserved for occupancy by very low-income households."

The Borough's prior and third round compliance plans provide for a total of 337 affordable units either constructed post 2008 or to be constructed and subject to the 13-percent very low-income requirements of the Fair Housing Act and the Court-approved Settlement Agreement, resulting in a minimum very low-income requirement of 44 units. The following demonstrates compliance with these requirements:

1. The ten (10) Medicaid beds to be constructed as part of the Brightview Senior Living Development qualify as very low-income units.
2. The seven (7) Medicaid beds to be constructed in the Artis Senior Living Facility qualify as very-low income units.
3. The seven (7) units in the existing Spring House Supportive Housing facility qualify as very low-income units.
4. All four (4) units developed pursuant to the Special Needs Partnership Program qualify as very low-income units.
5. The proposed inclusionary developments of Howard Commons, Parcel B, Sun Eagles and the Monmouth Mall Mixed Use Redevelopment projects are all subject to the amended affordable housing ordinance to be adopted by the Borough prior to the Co, which require the 13-percent very low-income set aside yielding a combined total of 29 very low-income units.

Based upon the foregoing, the prior and third round compliance plans are anticipated to generate 57 very low-income units, and, therefore, exceed the 44-unit requirement. It should be noted that although the 85 affordable units in the Pine Tree Mobile Park have been included in the 337 affordable unit total used to calculate the very low-income requirement, no units in Pine Tree Mobile Home Park are claimed at this time as very low-income units, notwithstanding there is a likelihood that a significant number of the units are very low-income units.

## **5.0 ADDITIONAL FAIR SHARE PLAN COMPONENTS**

### 5.1 -- Spending Plan

The Borough Council will adopt by resolution a Spending Plan consistent with the provisions of the Settlement Agreement and implementing the third round compliance plan prior to the Final Compliance Hearing currently scheduled for September 17, 2019.

### 5.2 -- Affirmative Marketing Plan

Appendix E is a draft of the Borough's Affirmative Marketing Plan, which is to be adopted by resolution of the Borough Council prior to the Final Compliance Hearing.

### 5.3 -- Reporting Requirements

Per the Settlement Agreement, on the first anniversary of the execution of the Settlement Agreement, and every anniversary thereafter through March 2025, the Borough will prepare a report on the status of all affordable housing activity within the Borough. Said report is to be posted on the Borough website.

Per the Settlement Agreement, the Township shall conduct a “midpoint realistic opportunity review” due on July 1, 2020 and consisting of a status report as to its implementation of this HE&FSP, and an analysis of whether any unbuilt sites or unfulfilled compliance mechanisms continue to present a realistic opportunity for the production of affordable housing, and whether any compliance mechanisms should be revised or supplemented. Such report shall be posted on the Borough website.

Per the Settlement Agreement, within 30 days of the third anniversary of the Settlement Agreement and every third year thereafter, the Borough shall prepare a status report as to satisfaction of its very low-income requirements, as set forth in N.J.S.A. 52:27D-329.1 and addressed in this HE&FSP. Said report shall be posted on the municipal website.

### 5.4 -- Amendments to Affordable Housing Ordinances

An ordinance amending the Borough’s affordable housing ordinances consistent with this HE&FSP and Settlement Agreement will be prepared and adopted by the Borough Council prior to the Final Compliance Hearing.