

**RESOLUTION**

**WHEREAS**, on July 7, 2015, the Township of West Orange (the “Township”) filed a Declaratory Judgment Complaint in Superior Court, Law Division, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. (2015) (Mount Laurel IV), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”), as to be amended as necessary, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine”; and

**WHEREAS**, the Township instituted certain litigation now pending in the Superior Court of New Jersey, Law Division, Essex County, captioned In the Matter of the Application of the Township of West Orange, Docket No. ESX-L-4697-15 (the “Declaratory Judgment Litigation”); and

**WHEREAS**, the Declaratory Judgment Litigation seeks declaratory relief approving the Township’s plan to satisfy its current affordable housing obligation and immunity from builders’ remedy lawsuits through the year 2025; and

**WHEREAS**, West Essex Highlands, Inc. (“WEHI”) owns certain real property consisting of approximately 120.5 acres generally located in the northwest corner of the Township adjacent to Warner Road, which property is specifically identified as Block 179, Lot 32 on the Township’s Official Tax Map (the “Property”); and

**WHEREAS**, the Property is bordered by the Township of Essex Fells (“Essex Fells”) to the west, the Township of Verona (“Verona”) to the north, and the West Essex Highlands Condominium development in West Orange (the “Condominium”) to the south; and

**WHEREAS**, the Association is the duly constituted condominium association for the Condominium; and

**WHEREAS**, WEHI intervened as a defendant in the Declaratory Judgment Litigation; and

**WHEREAS**, the Trial Judge appointed Elizabeth McManus, PP, AICP, LEED AP, as the Special Court Master (hereinafter the “Court Master”), as is customary in Mount Laurel matters adjudicated in the courts; and

**WHEREAS**, WEHI and the Township engaged in court-ordered mediation with the Court Master; and

**WHEREAS**, the Township was represented in these negotiations by the Township’s Affordable Housing Planner Shirley Bishop; and

**WHEREAS**, the Association is not a party to the Declaratory Judgment Litigation, but WEHI and the Township recognized the Association, an adjacent neighbor of the Property, as an interested party with respect to the development of the Property whose participation and input at mediation was deemed essential; and

**WHEREAS**, the Township wishes to include the Property as part of its affordable housing compliance plan in connection with the Declaratory Judgment Litigation; and

**WHEREAS**, the Parties, subject to the terms hereof and all other required governmental approvals, have agreed that the Property shall be developed as a multi-family residential development consisting of 396 market rate units and 100 affordable units, for a total of 496 units, and a clubhouse/amenity building (the “Proposed Development”) consistent with the “West Essex Highlands Concept Plan 16 for West

Essex Highlands, Block 179, Lot 32, Township of West Orange, Essex County, New Jersey” dated March 3, 2020; and

**WHEREAS**, the settlement of Mount Laurel litigation is particularly favored because (1) it avoids the expenditure of finite public resources; and (2) expedites the construction of safe, decent housing for the region’s low- and moderate-income households; and

**WHEREAS**, in light of the above, the Council finds that it is in the best interest of the Township to execute the attached Settlement of Litigation Agreement with WEHI which has been approved by the Condominium Association and to take the various other actions delineated below, which will ultimately result in approval of the Township’s Fair Share Plan which, in turn, will maintain the Township’s immunity from all Mount Laurel lawsuits for the ten-year period set forth in the New Jersey Fair Share Housing Act, N.J.S.A. 52:27D-301 to 329.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE** that the Township Council hereby directs, authorizes and empowers the Mayor to execute the Settlement of Litigation Agreement (“Agreement”) attached hereto as Exhibit “A;” and be it further

**RESOLVED**, that the Council hereby directs, authorizes and empowers the Mayor to take all actions reasonable and necessary to consummate the Agreement; and be it further

**RESOLVED**, that all other appropriate Township officials are hereby directed, authorized and empowered to execute all documents and take all steps necessary and

appropriate to effectuate the terms and purposes of this Resolution and the Agreement;  
and be it further

**RESOLVED**, that this Resolution shall be published and made available in the  
Clerk's office in accordance with applicable law.

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**Karen J. Carnevale, R.M.C.**  
**Municipal Clerk**

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**Michelle Casalino**  
**Council President**

**Adopted: April 14, 2020**