BOROUGH OF MOUNT ARLINGTON
RESOLUTION NO. 25-003

RESOLUTION OF THE BOROUGH OF MOUNT ARLINGTON ENDORSING THE BOROUGH'S FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

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

WHEREAS, pursuant to Mount Laurel IV, the Borough of Mount Arlington (the "**Borough**") filed a declaratory judgment action on July 7, 2015, entitled "In the Matter of the Application of the Borough of Mount Arlington" Docket No. MRS-L-1657-15, seeking a judicial declaration that its Housing Element and Fair Share Plan ("**Third Round HEFSP**") satisfied the "fair share" of the regional need for very low - low- and moderate-income housing, pursuant to the Mount Laurel Doctrine; and

WHEREAS, that culminated in a settlement agreement with Fair Share Housing Center ("**FSHC**") on June 13, 2018; and

WHEREAS, on April 30, 2020, the Court entered a Final Judgment of Compliance and Repose, granting the Borough immunity from Builder's Remedy lawsuits until July 1, 2025; and

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

WHEREAS, A4 required the New Jersey Department of Community Affairs (the "**DCA**") to produce non-binding estimates of need for present and prospective need for very low-, low- and moderate- income housing in each municipality for the Fourth Round on or before October 20, 2024; and

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

WHEREAS, the DCA Report calculated the Borough's Fourth Round obligation as follows: a Present Need or Rehabilitation Obligation of 38 and a Prospective Need or New Construction Obligation of 60; and

WHEREAS, on January 21, 2025, the Borough Council adopted Resolution No. 2025-40 (the "**Binding Resolution**"), accepting the obligation as set forth in the DCA Report; and

WHEREAS, pursuant to the Administrative Directive #14-24, dated December 13, 2024 (the "**Directive**"), implementing the Affordable Housing Dispute Resolution Program (the "**Program**") on January 22, 2025, the Borough filed a declaratory judgment action in the Superior Court of Morris County, bearing Docket No. MRS-L-177-25 (the "**Declaratory Judgment Action**"); and

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

WHEREAS, no interested party filed a challenge to the Declaratory Judgment Action; and

WHEREAS, the Borough engaged Jessica C. Caldwell, PP, AICP LEED-GA of J. Caldwell & Associates, LLC (the "**Borough Planner**") to prepare a Housing Element and Fair Share Plan for the Fourth Round (the "**Fourth Round HEFSP**") consistent with the obligation set forth in the Binding Resolution; and

WHEREAS, on April 24, 2025, the Honorable Janine M. Allen, J.S.C., the designated Mount Laurel Judge for the Morris Vicinage, entered an order setting the Borough's Present Need Obligation as 38 and the Prospective Need Obligation as 60, as set forth in the Binding Resolution; and

WHEREAS, in accordance with the Act and the Binding Resolution, the Borough Planner prepared the Fourth Round HEFSP, dated May 28, 2025, attached hereto, which addressed the Borough's Present Need and Prospective Need Obligations for the Fourth Round; and

WHEREAS, pursuant to N.J.S.A. 40:55D-28, the Land Use Board is charged with the preparation and adoption of the Borough's Master Plan, which includes the housing element and fair share plan; and

WHEREAS, on May 28, 2025, after providing notice in accordance with the Municipal Land Use Law, specifically N.J.S.A. 40:55D-313, the Land Use Board held a public hearing to review the Fourth Round HEFSP prepared by the Borough Planner; and

WHEREAS, after review and consideration of the Fourth Round HEFSP and presentation by the Borough Planner, the Land Use Board determined it was consistent with the goals and objectives of the Borough's current Master Plan, and adopted the same; and

WHEREAS, pursuant to the Directive, a resolution of the governing body must be adopted endorsing the Fourth Round HEFSP, no later than June 30, 2025, in order to seek a Final Judgment of Compliance and Repose; and

WHEREAS, after review and consideration of the Fourth Round HEFSP, the Borough finds it is in the best interest of the Borough to endorse the Fourth Round HEFSP, as adopted by the Borough's Land Use Board.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Mount Arlington, in the County of Morris, New Jersey, as follows:

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

Section 2. The Borough's Council endorses the Fourth Round HEFSP as prepared by the Borough Planner and adopted by the Land Use Board.

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

Section 4. This resolution shall take effect immediately.

WHEREAS, after review and consideration of the Fourth Round HEFSP and presentation by the Borough Planner, the Land Use Board has determined it is consistent with the goals and objectives of the Borough's current Master Plan, and adoption of the same is in the best interest of the Borough; and

WHEREAS, upon adoption of the Fourth Round HEFSP, the Land Use Board Secretary is hereby directed to transmit the same to the Clerk of the Borough for consideration of endorsement by the Borough Council.

NOW THEREFORE BE IT RESOLVED the Land Use Board of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, hereby adopts the Fourth Round Housing Element and Fair Share Plan, dated May, 2025, and attached hereto as Exhibit A.

I certify that the foregoing Resolution was duly adopted by the Land Use Board of the Borough of Mount Arlington on May 28, 2025.

Secretary, Land Use Board