

2024 AFFORDABLE HOUSING ANNUAL MONITORING REPORT

BOROUGH OF NEW PROVIDENCE

Union County, New Jersey

April 3, 2024

Prepared By:



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NEW PROVIDENCE, UNION COUNTY 2024 ANNUAL MONITORING REPORT

The purpose of this report is to outline the status of affordable housing projects as well as to account for housing trust fund activity. New Providence executed a series of Settlement Agreements with Fair Share Housing Center (FSHC) and intervenors, resulting in the final Amended Settlement Agreement executed on April 1, 2019. The Borough of New Providence's 2019 Housing Element and Fair Share Plan (HEFSP) addresses its obligation of 316 affordable housing units, including a 264-unit Unmet Need and 52-unit RDP. A Final Judgment of Compliance and Repose was issued by the Court on August 25, 2020. Pursuant to the Court-approved settlement agreement, on each anniversary of the settlement agreement, the Borough shall provide annual reporting of the status of all affordable housing activity within the municipality. A Midpoint Review was prepared in 2020 and Annual Monitoring Reports were prepared in 2021, 2022, and 2023. A copy of those reports is on file with the Borough, and copies were sent to the Department of Community Affairs and FSHC. The following constitutes the 2024 Annual Monitoring Report.

Pursuant to the 2019 Amended Settlement Agreement, New Providence's Affordable Housing Obligation is as follows:

Present Need / Rehabilitation Share: 37 units
Prior Round: 135 units
Third Round Unmet Need: 264 units
Third Round RDP: 52
(Third Round Total: 316 units)

The Borough received a Vacant Land Adjustment (VLA) in 1989, which created a 54-unit Realistic Development Potential (RDP) and an 81-unit unmet need. As detailed in the Court-approved Housing Element and Fair Share Plan, the Borough has addressed its entire Prior Round obligation, including the 81-unit unmet need. An updated VLA was prepared in 2015 and again in 2017 to establish a Third Round RDP of 52 units and an unmet need of 264.

TRUST FUND MONITORING

New Providence's most recent Spending Plan was amended on September 28, 2023, and covers revenues and expenditures through December 31, 2025. The amended Spending Plan (Appendix A) was approved by the Council on October 10, 2023 via Resolution 2023-280 (Appendix B), and received Court approval via Docket No. UNN-L-2442-15 on March 28, 2024 (Appendix C). The impetus for the amendment occurred in February 2023, when the Church Coalition for New Providence Affordable Housing Corporation ("Church Coalition") defaulted on its loan for the Elizabeth Barabash Manor, leaving a balance of \$436,893.40. The Church Coalition had been leasing the site since the 1990s, with a 30-year term that was set to expire on February 28, 2025. Understanding that the Church Coalition was not in a position to repay the loan and considering that the lease was to expire in less than two years, the Borough adjusted the Spending Plan to contribute \$550,000.00 to satisfy the loan and release the mortgage. As of the writing of this Report, the money has not yet been expended from the fund. For further information, please see the amended Spending Plan.

At the time of the 2023 Annual Monitoring Report, the Borough's Affordable Housing Trust Fund had a balance of \$1,095,337.11. Since February 2023, the Borough collected an additional \$150,992.74 in development fees and \$14,942.04 in interest. The Borough made no withdrawals or payments from the Trust Fund during this time period, as the Borough paid out all administrative costs associated with its affordable housing through alternative funds. As of February 29, 2024, the Trust Fund had a balance of \$1,249,935.64.

PRIOR AND THIRD ROUND MONITORING

New Providence Borough, Union County Annual Project Form March 1, 2022 - Present									
Site/Program Name:	Block 310 & Block 311			A-4 Affordable Housing Zone "Beckton Dickinson" Site			AHO Affordable Housing Overlay Zone		
Affordable Housing Round:	Prior and Third Round			Third Round			Third Round		
Project Type:	Inclusionary Zoning			Inclusionary Zoning			Inclusionary Zoning		
Block & Lot	B 310 Lots 1 & 2; B 311 Lot 3			B 210, L 32			B 210; 221; 340 L 21, 22, 23; 2.01, 6; 4, 6, 8		
Street:	425 Mountain Ave / 550 South St / 450 Mountain Ave			111 Spring St			Northwest of Murray Hill Train Station Spring St, Floral Ave, and Charlton Rd		
Status:	No Approvals			Construction permits have been issued and work toward the development has begun.			No Approvals		
Date:	N/A			Received Planning Board approval on 12/14/2021			Ordinance No. 2019-06 adopted 9/19/2019		
Length of Controls:	30 years (to begin with occupancy)			30 years (to begin with occupancy)			30 years (to begin with occupancy)		
Administrative Agent:	Margaret Koontz 360 Elkwood Avenue New Providence, NJ 07974 mkoontz@newprov.org 908-665-1124			Margaret Koontz 360 Elkwood Avenue New Providence, NJ 07974 mkoontz@newprov.org 908-665-1124			Margaret Koontz 360 Elkwood Avenue New Providence, NJ 07974 mkoontz@newprov.org 908-665-1124		
Contribution (PIL):	N/A			N/A			N/A		
Type of Units:	TBD			Family Rental			Family Rental		
Total Affordable Units:	10			38			127		
Income/Bedroom Distribution:	1 BR	2 BR	3 BR	1 BR	2 BR	3 BR	1 BR	2 BR	3 BR
Very Low Income	TBD			TBD			TBD		
Low Income									
Moderate Income									
Notes:	Mandatory 20% set-aside at a density of 10 units per acre			Planning Board Approved: 6 one-bedroom units 22 two-bedroom units 10 three-bedroom units; Income levels to be confirmed and approved by the Admin Agent			Underlying TBI-2 zoning with a mandatory 20% affordable set- aside with densities ranging from 9.5-17 units per acre. No application has been submitted that would trigger the affordable overlay.		

New Providence Borough, Union County
Annual Project Form March 1, 2022 - Present

Site/Program Name:	AH-ARO Affordable Housing Age-Restricted Overlay Zone	PACO Planned Adult Community Overlay Zone	Riverbend
Affordable Housing Round:	Third Round	Third Round	Prior Round
Project Type:	Inclusionary Zoning	Inclusionary Zoning	Inclusionary Development
Block & Lot	B 221, L 5	B 370, L 1	B 234, L 17.06, 17.07, 17.17, & 17.18
Street:	630 Central Ave	100 Mountain Ave	Riverbend Court
Status:	No Approvals	The Borough has issued demolition plans and demolition is underway, but no applications have been received for the site	All are occupied
Date:	Ordinance No. 2019-06 adopted 9/19/2019	Ordinance No. 2019-06 adopted 9/19/2019	Lots 17.06 deed dated 5/5/2017; Lot 17.07 deed dated 10/17/2018; Lot 17.17 deed dated 1/31/2022; Lot 17.18 deed dated 9/16/2021
Length of Controls:	30 years (to begin with occupancy)	30 years (to begin with occupancy)	30 years from deed
Administrative Agent:	Margaret Koontz 360 Elkwood Avenue New Providence, NJ 07974 mkoontz@newprov.org 908-665-1124	Margaret Koontz 360 Elkwood Avenue New Providence, NJ 07974 mkoontz@newprov.org 908-665-1124	Margaret Koontz 360 Elkwood Avenue New Providence, NJ 07974 mkoontz@newprov.org 908-665-1124
Contribution (PIL):	N/A	N/A	N/A
Type of Units:	Age-Restricted Rental	Age-Restricted Rental	Family For-Sale
Total Affordable Units:	20	59	4
Income/Bedroom Distribution:	1 BR 2 BR 3 BR	1 BR 2 BR 3 BR	1 BR 2 BR 3 BR
Very Low Income	TBD	TBD	See Notes Below
Low Income			
Moderate Income			
Notes:	Underlying TBI-2 zoning with mandatory 20% affordable set-aside at density of 14 units per acre. No application has been submitted that would trigger the affordable overlay.	Underlying TBI-1 zoning with a set-aside of mandatory 20% at a density of 13.8 units per acre. No application has been submitted that would trigger the affordable overlay.	Lot 17.06 is a moderate two-bedroom unit. Lot 17.07 is a moderate three-bedroom unit. Lot 17.17 is a low two-bedroom unit. Lot 17.18 is a low two-bedroom unit.

REHABILITATION PROGRAM MONITORING

The Borough of New Providence has a Rehabilitation Share / Present Need obligation of 37 units and participates in Union County rehabilitation programs to address this obligation. The County's rehabilitation programs utilize Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME) funding and are operated by the County's Bureaus of Community Development and Housing.

Union County provides a Home Improvement Program through the Department of Economic Development, also funded by CDBG monies. The Home Improvement Program offers a Deferred Payment loan up to \$24,999 to qualified low- and moderate-income households in owner-occupied single- and two-family homes in Union County. As noted in the 2022 and 2023 Annual Monitoring Reports, the unit located at 27 Timothy Field Road applied to the County program for a new heating system. The work was completed at a cost of \$7,900 and the permit was closed out in July 2022. The Home Improvement Program has not received any additional applications.

In addition to advertising these programs on the municipal website, New Providence expanded its rehabilitation opportunities by implementing a Borough-wide Rental Rehabilitation Program. A Rental Rehabilitation Operating Manual was adopted by resolution by the Borough Council in June of 2019 (see the Housing Element and Fair Share Plan for additional details). The Borough of New Providence actively advertises the Rental Rehabilitation Program on the Borough website. At present, there have been no applications to the Borough Rental Rehabilitation Program.

VERY LOW-INCOME REPORTING

Very Low-Income Breakdown Analysis – New Providence Affordable Housing				
Development	# OF TOTAL AH UNITS <u>POST 2008</u>	VL	Low	Mod
Constructed				
Spring Gardens (851 Springfield Ave) (constructed 2008)	6	-	3	3
Union County ARC (905 Springfield Ave)	3	3	-	-
Riverbend (Block 234; Lots 17.06, 17.07, 17.17, & 17.18)	4	-	2	2
CONSTRUCTED TOTALS	13	3	5	5

APPENDIX A

Borough of New Providence 2023 Amended Affordable Housing Trust Fund Spending Plan

Borough of New Providence Affordable Housing Trust Fund Spending Plan

August 9, 2019, Amended October 28, 2019,
Amended September 28, 2023 and approved by Borough Council on October 10, 2023
Approved the Court in an order dated March 28, 2024

Borough of New Providence

Union County, New Jersey

Prepared By:



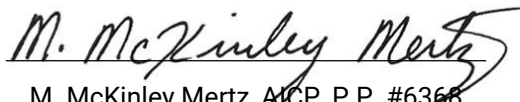
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The original of this report was signed and
sealed in accordance with N.J.S.A. 45:14A-12.


M. McKinley Mertz, ACP, P.P. #6368

Contents

Introduction.....	3
1. REVENUES FOR CERTIFICATION PERIOD	4
Projected Revenues.....	5
2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS	6
3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS	7
Affordability Assistance (N.J.A.C. 5:93-8.16).....	8
Administrative Expenses (N.J.A.C. 5:93-8.16).....	9
4. EXPENDITURE SCHEDULE.....	10
5. Excess or shortfall of Funds.....	10
SUMMARY	11

INTRODUCTION

The Borough of New Providence, Union 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 approved by the Council on Affordable Housing ("COAH") on January 4, 2008, and adopted by the Borough on March 10, 2008. The ordinance established the New Providence Affordable Housing Trust Fund. An amended ordinance was prepared and adopted on May 22, 2017, via Ordinance 2017-09. Ordinance 2017-09 updated the development fee ordinance to current standards.

As of September 8, 2023, the Affordable Housing Trust Fund established by the Borough and held at Citizens Bank, had collected a total of \$1,586,674.82 in development fees, interest, and other income since its inception. The Borough has spent a total of \$306,438 on affordable housing activities and \$186,813.50 on administrative costs, leaving a current balance of \$1,184,156.13. 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 this separate, interest-bearing affordable housing trust fund for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:93, or applicable regulations, as described in the sections that follow.

In accordance with the April 1, 2019 settlement agreement with Fair Share Housing Center ("FSHC"), the expenditures of funds contemplated under the FSHC agreement 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 approving this settlement 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 execution of the FSHC agreement (April 1, 2020), and every anniversary thereafter through the end of the FSHC agreement, the Borough will provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs ("DCA"), COAH, or Local Government Services ("LGS"), or other entity designated by the State of New Jersey, with a copy provided to FSHC and posted on the municipal website. 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.

This revised spending plan is submitted to the Superior Court of New Jersey for approval to expend all current and future affordable housing trust fund monies, as necessary, to finance the Rental Rehabilitation program and to account for financial support for the Elizabeth Barabash Manor.

1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of third round “substantive certification,” the Borough of New Providence 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):

Actual and committed payments in lieu (PIL) of construction from developers.

(c) Other funding sources:

Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, proceeds from the sale of affordable units. No other funds have been or are anticipated to be collected.

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate.

Projected Revenues

Projected Revenues-Housing Trust Fund - 2023-2025					
SOURCE OF FUNDS	Trust Fund balance as of 09/08/2023	2023	2024	2025	Total Revenue
Historical Balance	\$1,184,156.13	-	-	-	\$1,184,156.13
(a) Projected Development Fees	-	\$7,000.00	\$27,000.00	\$27,000.00	\$61,000.00
(d) Interest	-	\$31.50	\$121.50	\$121.50	\$274.50
					\$61,274.50
Total	\$1,184,156.13	\$7,031.50	\$27,121.50	\$27,121.50	\$1,245,430.63

To calculate the projection of revenue anticipated from the general development fees, construction data for the Borough, acquired from the New Jersey Department of Community Affairs, was examined. Additionally, the previous transactions within the Affordable Housing Trust Fund were reviewed.

The Borough therefore projects a total of \$61,000 will be collected between September 1, 2023 and December 31, 2025. An additional \$274.50 in interest is projected to be earned. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing. In conjunction with the existing trust fund balance of \$1,184,156.13, the Borough projects total trust fund revenues and interest of \$1,245,430.63 through December 31, 2025.

2. 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 Borough of New Providence:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with New Providence's development fee ordinance for both residential and non-residential developments and in accordance with N.J.S.A. 40:55D8-1 through 8.7.

(b) Distribution of development fee revenues:

The Administrative Agent and the Municipal Housing Liaison will manage the projects outlined in this Spending Plan and the Housing Element and Fair Share Plan.

(c) Collection and distribution of barrier free funds:

Collection and distribution of barrier free funds shall be consistent with the Borough's Affordable Housing Ordinance (Chapter 225 of the Borough's Revised General Code) and in accordance with applicable regulations. A process describing the collection and distribution procedures for barrier free escrow is detailed within the Borough's Affordable Housing Ordinance.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

The following represent the anticipated affordable housing projects within the Borough of New Providence that will utilize Trust Fund monies.

(a) Rehabilitation program

New Providence will dedicate \$150,200.87 to the rehabilitation of substandard rental units within the Borough. Pursuant to the Housing Element and Fair Share Plan, the Borough will implement a Borough-wide rental rehabilitation program to supplement the County owner rehabilitation program.

(b) Renovation to the Elizabeth Barabash Manor

The Elizabeth Barabash Manor is a 100% affordable age-restricted development that consists of 22 low-income rental units. The property is owned by the Borough. In the 1990s, the Church Coalition for New Providence Affordable Housing Corporation ("Church Coalition") leased the property from the Borough and constructed the building consisting of the rental units. The lease was for a term of 30 years and terminates on February 28, 2025. The Church Coalition had obtained a loan from Citizens Bank secured by the lease. In February 2023, the Church Coalition defaulted on the loan and a balance of \$436,893.40 is due. The Borough is aware that the Church Coalition is not in a position to repay their loan. In consideration of that fact, and the fact that the lease will expire in less than two years, the Borough wishes to utilize Trust Fund monies to satisfy the debt and allow the use restriction as set forth in the lease to continue for an additional 30-year minimum.

The Borough will allocate \$550,000 from their Trust Fund to satisfy the loan and release the mortgage, and to account for any additional fees, costs, or interest that have accrued. Any remaining funds will be returned to the Trust Fund. The Borough then intends to sell the property for \$1.00 to Community First Initiative ("CFI"), a nonprofit organization which provides affordable housing and resident services across New Jersey. As a condition of sale, there will be a restrictive covenant providing that should the property cease to be used for its intended purpose of affordable housing, the property will revert back to ownership of the Borough of New Providence. CFI intends to acquire the property, renovate the units, and manage the building in accordance with the Uniform Housing Affordability Controls ("UHAC") and the Borough's Affordable Housing Ordinance.

Affordability Assistance (N.J.A.C. 5:93-8.16)

Projected minimum affordability assistance requirement:

Affordability Assistance		
Actual Development Fees and Interest Earned through 9/8/2023		\$1,586,674.82
Projected Development Fees 2023-2025	+	\$61,000
Projected Interest 2023-2025	+	\$274.50
Expenditures Towards Housing Activity to Date	-	\$306,438.00
Total	=	\$1,341,511.32
30 percent requirement	x 0.30 =	\$402,453.40
PROJECTED MINIMUM Affordability Assistance Requirement 09/01/2023 through 12/31/2025	=	\$402,453.40
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 09/01/2023 through 12/31/2025	÷ 3 =	\$134,151.13

As per the requirements regarding the use of funds for affordability assistance laid out in N.J.A.C. 5:93-8.16, the Borough is required to dedicate at least 30 percent of all development fees collected and interest earned to provide affordability assistance to low-, and moderate-income households. In addition, at least one-third of the affordability assistance shall be used to provide affordability assistance to very-low income households. The Borough, therefore, will dedicate at least \$402,453.40 from the affordable housing trust fund to render units more affordable, including \$134,151.13 to render units more affordable to households earning 30 percent or less of median income by region as follows:

- For-sale units in the form of down-payment assistance, homeowner assistance loans for Condominium or Homeowner Association fees, and homeowner assistance loans for mortgage payments up to two months or less in arrears to forestall foreclosure (Appendix A).
- For-rent units in the form of security deposit assistance and rental assistance, which are enhanced for very low-income households (Appendix A).

Administrative Expenses (N.J.A.C. 5:93-8.16)

Administrative Expenses		
Actual Development Fees and Interest Earned through 09/08/2023		\$1,586,674.82
Projected Development Fees 2023-2025	+	\$61,000
Projected Interest 2023-2025	+	\$274.50
Total	=	\$1,647,949.32
20 percent cap	x 0.20 =	\$329,589.86
Administrative Expenditures to Date	-	\$186,813.50
PROJECTED MAXIMUM available for administrative expenses 09/08/2023 through 12/31/2025	=	\$142,776.36

No more than 20% of revenues collected from development fees shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop and implement: a rehabilitation program; a new construction program; a housing element; and an affirmative marketing program. Administrative funds may be used for: income qualification of households; monitoring the turnover of sale and rental units; and compliance with monitoring requirements.

Moving forward, the Borough projects that a maximum of \$142,776.36 will be available from the affordable housing trust fund to be used for administrative purposes, including but not limited to:

- Administration and expenses associated with Borough's affordable housing units.
- Expenses associated with the creation and implementation of the Borough Rental Rehabilitation Program.
- Expenses associated with the preparation and implementation of the Housing and Fair Share Plan and monitoring of the current and future housing programs for the Borough of New Providence.

Legal or other fees related to litigation opposing affordable housing sites are not eligible uses of the affordable housing trust fund.

4. EXPENDITURE SCHEDULE

Program	Projected Expenditures Schedule 2023-2025			
	2023	2024	2025	Total
Rental Rehabilitation Program	\$9,200.87	\$70,500	\$70,500	\$150,200.87
Elizabeth Barabash Manor	\$550,000	-	-	\$550,000.00
Affordability Assistance	\$50,453.40	\$176,000	\$176,000	\$402,453.40
Administration	\$17,776.36	\$62,500	\$62,500	\$142,776.36
Total	\$627,430.63	\$309,000	\$309,000	\$1,245,430.63

5. EXCESS OR SHORTFALL OF FUNDS

In the event funding sources as identified within this Spending Plan for the projects detailed in the Housing Element and Fair Share Plan prove inadequate to complete the affordable housing programs, the Borough shall provide sufficient funding to address any shortfalls through bonding.

In the event that more funds than anticipated are collected or projected funds exceed the amount necessary to implement the Borough's affordable housing projects, these excess funds will be used to fund eligible affordable housing activity pursuant to applicable rules and regulations.

A component of the settlement agreement with Linde North America, Inc. was a residential development fee on top of the standard non-residential development fee for the construction of an addition to the Lantern Hill Retirement Community, managed by Erickson Living, on 575 Mountain Avenue. The existing Lantern Hill Retirement Community is located at 603 and 535 Mountain Avenue. Pursuant to the settlement agreement, Erickson Living will pay the required non-residential development fee and a residential development fee for incremental development of the site that is greater than 17 units per acre. The Borough does not anticipate receiving these funds prior to 2025.

SUMMARY

The Borough of New Providence intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:93 and consistent with the housing programs outlined in its Housing Element and Fair Share Plan.

As of September 8, 2023, the Borough's trust fund has a balance of \$1,184,156.13. New Providence anticipates an additional \$61,274.50 in revenues and interest by December 31, 2025. The Borough will dedicate \$150,200.87 towards its Rental Rehabilitation Program, \$550,000 in 2023 toward the Elizabeth Barabash Manor, \$402,453.40 towards affordability assistance, and \$142,776.36 to administrative costs. An additional \$77,485.55 has been added to the initial projected expenditures for the Borough's Rental Rehabilitation Program. As expenditures associated with administrative expenses, down payment assistance, and new development have been recorded to date in 2023, the remaining available funding has been allocated to New Providence's Rental Rehabilitation Program.

SPENDING PLAN SUMMARY	
Balance as of September 8, 2023	\$1,184,156.13
Projected REVENUE September 1, 2023 to December 31, 2025	
Development Fees	+ \$61,000
Payments in Lieu of Construction	+ \$0
Other funds	+ \$0
Interest	+ \$274.50
TOTAL REVENUE + CURRENT BALANCE	= \$1,245,430.63
EXPENDITURES	
Funds used for Rental Rehabilitation, Renovation, and New Construction	- \$700,200.87
Affordability Assistance	- \$402,453.40
Administration	- \$142,776.36
Excess Funds for Additional Housing Activity	= \$0
TOTAL PROJECTED EXPENDITURES	= \$1,245,430.63
REMAINING BALANCE	= \$0.00

SPENDING PLAN APPENDIX A
FOR-SALE UNIT AFFORDABILITY ASSISTANCE
AND RENTAL UNITS AFFORDABILITY ASSISTANCE PROGRAM

BOROUGH OF NEW PROVIDENCE
FOR-SALE UNIT AFFORDABILITY ASSISTANCE PROGRAM
AND RENTAL UNIT AFFORDABILITY ASSISTANCE PROGRAM

FOR-SALE UNIT AFFORDABILITY ASSISTANCE PROGRAM

Down Payment Loan Program

The Borough will offer a Down Payment Assistance Loan program to qualified purchasers of households earning 80% or less of median income of the housing region. To be eligible for the loan, the qualified Buyer must be able to supply 3% of the down payment with the Buyer's own funds, plus additional closing costs that exceed the amount of the loan. No gifts or other loans may be used to fund the 3% down payment amount but may be used to fund additional closing costs. The loan amount may be made up to ten percent (10%) of the purchase price.

The Borough must approve the Buyer's qualifications and need for the loan. The loan has no prepayment penalty. It is due and payable when the Buyer resells, borrows against the property or refinances the First Purchase Money Mortgage. The loan may be subordinated only to the First Purchase Money Mortgage. When calculating the borrowing capacity of the homeowner and the equity in the property, this loan must be included. The Buyer must sign a mortgage and mortgage note to the Borough.

Payment of Closing Costs

Eligible Buyers may receive payment of closing costs, i.e., title work and policy, reasonable attorney's fees for closing of title, preparation of survey, homeowner's insurance, recording fees, and other necessary closing expenses to third parties, not to exceed one thousand five hundred dollars (\$1,500.) per unit. This assistance shall be in the form of a grant. Total buyer assistance grants, which include Payment of Closing Costs and Payment of Lender Fees, shall not exceed three thousand dollars (\$3,000) per unit. Utility deposits, i.e., gas and electric, paid to utility companies are to be returned to the Borough Affordable Housing Trust Fund upon resale of the unit. The buyer will execute documents required to secure payment to New Providence.

Payment of Lender Fees

Eligible Buyers may receive payment of lender fees, i.e., mortgage points, application fees, appraisal fees, bank attorney review fees, and necessary mortgage closing expenses, not to exceed one thousand five hundred dollars (\$1,500.) per unit. This assistance shall be in the form of a grant. Total buyer assistance grants, which include Payment of Closing Costs and Payment of Lender Fees, shall not exceed three thousand dollars (\$3000) per unit.

Administration

New Providence's Affordability Assistance Programs will be managed by the Borough Affordable Housing Administrative Agent. The availability of the program shall be advertised continually on the Borough's website. The following administrative process is applied to the For-Sale Unit Affordability Assistance Program:

1. The Buyer contacts the Administrative Agent to confirm that he/she wants to receive Down Payment Assistance.
2. The Buyer must present proof to the Administrative Agent that he/she is qualified for Affordable Housing in the Borough.
3. Buyer must produce an exact copy of a signed Real Estate Contract for an affordable housing unit in New Providence, which indicates clearly the full amount of the purchase

price. Buyer must provide the Administrative Agent with the full name, address, phone number, and fax number of the Buyer's Attorney or Settlement Agent so that the Attorney or Settlement Agent can review and approve any and all documents required for the loan.

4. The Administrative Agent contacts the Realtor or Developer for confirmation of the sale of the unit, and the name of the Attorney handling the sale for the Developer at closing.
5. The amount of the Down Payment Assistance loan is verified (not to exceed ten percent of the Purchase Price) so that a Mortgage Note, Mortgage, and Repayment Agreement can be prepared by the Administrative Agent.
6. The amount of the Down Payment Assistance must be disclosed to the Lender, so that the Lender can accurately prepare the First Mortgage documents. The Buyer must give a copy of the First Mortgage Commitment to the Administrative Agent upon receipt of same, so that the Lender can receive full information about the Down Payment Assistance Loan, which shall constitute a Second Mortgage on the premises. The Lender must approve the secondary financing. The Borough Affordable Housing Attorney will contact the Lender once the Affordable Housing Attorney has a copy of the First Mortgage Commitment.
7. The New Providence Finance Department will generate the necessary forms and obtain Borough Council approval for it to issue an Affordable Housing Trust Fund check payable to the Seller's Attorney or Settlement Agent, so that the Down Payment Assistance check can be deposited into the Seller's Attorney Trust Account or Settlement Agent Trust Account pending Closing of Title. The letter and check to the Seller's Attorney or Settlement Agent shall state that the deposit money must be returned to the Borough if the closing is canceled, or if the sale is declared null and void. If there is a Closing of Title, the Down Payment Assistance money shall be released to the Seller. This money shall be shown on the Closing Statement as a deposit, with credit given at closing to the Buyer. The Buyer must fully execute the Mortgage Note, Mortgage, and Repayment Agreement at the Closing of Title before any money is released.
8. The Seller's Attorney or Settlement Agent shall verify that the Mortgage Note, Mortgage, and Repayment Agreement have been properly executed, and shall file the original Mortgage with the County Clerk to protect the Borough Second Mortgage on the property and return the Filed Mortgage to Affordable Housing Attorney along with the original Mortgage Note and Repayment Agreement.

RENTAL UNIT AFFORDABILITY ASSISTANCE PROGRAM

Rental Assistance

The Borough of New Providence may offer a Rental Assistance Program that will be managed by the Administrative Agent. Eligible recipients of the program are renters who qualify for a very-low, low- or moderate-income rental unit. The following assistance is available to very-low, low- and moderate-income households:

1. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed five hundred dollars (\$500.) per family.
2. Rent subsidy for the first month's rent.
3. Utility deposit assistance.

The following assistance is available to very low-income households:

1. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed one thousand five hundred dollars (\$1,500.) per household.
2. Rental security deposit – Deposits paid to landlord to be returned to the Borough's Affordable Housing Trust Fund upon termination of tenancy.
3. Rent subsidy for the first month's rent.
4. Utility deposit assistance.

Rental assistance does not need to be repaid by the tenant. The amount of the rental supplement will be calculated initially based on the tenant's actual income and the rent level of the affordable units to help bring the total shelter costs down to 30% of the total household income or lower, if warranted by the particular household circumstances. If the tenant wishes to renew the lease, he/she must be re-income qualified and the rental supplement will be recalculated. If the tenant no longer qualifies for the rental assistance, he/she may renew the lease and stay in the unit but will no longer receive rental assistance.

Administration

New Providence's Rental Unit Affordability Assistance Programs will be administered by the Administrative Agent. The availability of the program shall be advertised continually on the Borough's website. After an applicant is income qualified by the Administrative Agent pursuant to the Uniform Housing Affordability Controls, the applicant will complete and provide an affordability assistance application to the Administrative Agent.

For qualified and approved payment of moving expense, the Administrative Agent will follow the Borough purchasing and requisition process for generating a check that is made out to the applicant. Once the check is produced, the Administrative Agent provides it to the applicant.

For qualified and approved payment of utility deposit, the Administrative Agent follows the Borough purchasing and requisition process for generating a check that is made out to the utility company. Once the check is produced, the Administrative Agent provides it to the applicant for payment to the utility company.

The affordability assistance recipient will sign a contract with the Borough of New Providence that states, at a minimum: the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information if required.

The availability of any Affordability Assistance Programs must be noticed to all tenants of affordable units within the Borough and provided to all administrative agents of affordable units within New Providence and advertised on the Borough's website.

An income eligible occupant or applicant for an affordable unit within the Borough may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available.

APPENDIX B

**Borough of New Providence
Resolution 2023-280**

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2023-280

Council Meeting Date: 10-10-2023

Date Adopted: 10-10-2023

TITLE: A RESOLUTION OF THE BOROUGH OF NEW PROVIDENCE
APPROVING SECOND AMENDMENT TO THE TRUST FUND
SPENDING PLAN

Councilperson Cumiskey submitted the following resolution, which was duly seconded by Councilperson McKnight.

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center on or about December 13, 2016 addressing its fair share affordable housing obligations and the compliance mechanisms pertaining to the satisfaction thereof; and

WHEREAS, on January 13, 2017, the Court held a fairness hearing as to the Settlement Agreement and thereafter entered an Order dated January 30, 2017 approving the Settlement Agreement; and

WHEREAS, prior to the compliance hearing, objections had been raised by objectors, and after negotiation, the Borough, Fair Share Housing Corporation and objectors agreed to settle the litigation and entered into a Settlement Agreement as of April 1, 2019, which agreement was approved by the Court on November 13, 2019; and

WHEREAS, in accordance with the Settlement Agreement and Order of the Court, the Borough adopted a Housing Element and Fair Share Plan which fully addresses its rehabilitation need and obligations; and

WHEREAS, the Housing Element and Fair Share Plan requires a spending plan that projects anticipated revenues to and expenditures from the Borough's Affordable Housing Trust Fund to address the Borough's fair share obligation as set forth in the Housing Element and Fair Share Plan; and

WHEREAS, the Borough adopted a Resolution approving its Affordable Housing Trust Fund Spending Plan; and

WHEREAS, the Affordable Housing Trust Fund Spending Plan was amended as of October 28, 2019 by Resolution of the Borough; and

WHEREAS, the Borough wishes to amend its Spending Plan in order to commit \$550,000.00 from the Affordable Housing Trust Fund Account for an affordable housing project pursuant to which property known as Elizabeth Barabash Manor located at 101 Academy Street within the Borough shall be sold to Community First Initiative, a non-

profit organization, and such funds shall be used to pay and release the existing mortgage on the property, and to renovate and repair affordable units within the building;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey as follows:

1. The Borough of New Providence hereby adopts and approves a Second Amended Trust Fund Spending Plan dated October __, 2023. Said Spending Plan is attached hereto as Exhibit A and made a part hereof.

2. A certified true copy of this Resolution, together with the Second Amended Spending Plan shall be filed by the Municipal Clerk with the Superior Court of New Jersey.

This Resolution shall take effect immediately.

APPROVED, this 10th day of October, 2023.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
BILICKA	X			
CUMISKEY	X			
DESARNO	X			
GEOFFROY	X			
KOGAN	X			
MCKNIGHT	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 10th day of October, 2023.

Wendi B. Barry, Borough Clerk

APPENDIX C

**Superior Court of New Jersey Docket No. UNN-L-2442-15
Order Authorizing Expenditure of Affordable Housing Trust Funds**

***DiFrancesco, Bateman, Kunzman,
Davis, Lehrer & Flaum, P.C.***

15 Mountain Boulevard

Warren, N J 07059

(908) 757-7800

Attorney ID# 020011980

Attorneys for Borough of New Providence

**IN THE MATTER OF THE ADOPTION
OF THE BOROUGH OF NEW
PROVIDENCE FOR A JUDGMENT
OF COMPLIANCE OF ITS THIRD
ROUND HOUSING ELEMENT AND
FAIR SHARE PLAN**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CIVIL PART
UNION COUNTY

DOCKET NO. UNN-L-2442-15

CIVIL ACTION

**ORDER AUTHORIZING EXPENDITURE
OF AFFORDABLE HOUSING
TRUST FUNDS**

THIS MATTER being having been opened to the Court by Paul R. Rizzo, Esq., attorney on for the Borough of New Providence by way of Motion for approval to amend the Borough's Affordable Housing Trust Fund Spending Plan and authorize the expenditure of Affordable Housing Trust Funds, on notice to all Intervenors, and the Court having considered the moving papers, and papers filed in opposition to the Motion (if any) and having further considered the arguments of counsel, and for good cause shown;

IT IS ON THIS 28th day of March, 2024,

ORDERED that:

1. The Borough of New Providence is authorized to expend the sum of \$550,000.00 from the Borough's Affordable Housing Trust Fund to facilitate the repair and sale of Elizabeth Barabash Manor located at 101 Academy Street, New

Providence, New Jersey for the purpose of maintaining such property as a 100% affordable housing project;

2. The Borough of New Providence is hereby authorized to amend its Affordable Housing Trust Fund Spending Plan to reflect the expenditure of \$550,000.00 from the Trust Fund for the purposes herein expressed; and it is further

ORDERED that service of this Order shall be deemed effectuated upon all parties upon the upload to *eCourts*. Pursuant to Rule 1:5-1(a), a movant shall serve a copy of this Order on all parties not served electronically within seven (7) days of the date of this Order.

Daniel R. Lindemann

Daniel R. Lindemann, J.S.C.

☐ This motion was opposed.

☒ This motion was unopposed.