

## **AGREEMENT ON CONSOLIDATION AND FAIR SHARE**

This Agreement on Consolidation and Fair Share is made April 3, 1996, by, between, and among

**THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING**, the agency of the State of New Jersey with primary jurisdiction for the administration of housing obligations in accordance with sound regional planning, with its principal place of business located at 101 South Broad Street, Trenton, New Jersey 08625-0813 ("COAH");

**THE BOROUGH OF PRINCETON, COUNTY OF MERCER**, a municipal corporation of the State of New Jersey, with its principal place of business at Borough Hall, One Monument Drive, Princeton, New Jersey 08542 ("Borough"); and

**THE TOWNSHIP OF PRINCETON, COUNTY OF MERCER**, a municipal corporation of the State of New Jersey, with its principal place of business at 369 Witherspoon Street, Princeton, New Jersey 08540 ("Township").

### **BACKGROUND**

- A. COAH is responsible, under the state Fair Housing Act, N.J.S.A. 52:27D-301 et seq., for estimating municipal low and moderate income housing need and adopting criteria and guidelines for adjustments and credits that are used to determine a municipality's fair share of low and moderate income housing need. COAH also reviews a municipal petition for substantive certification of a municipal housing element and fair share plan. COAH grants substantive certification if COAH determines that achievement of the municipality's fair share of low and moderate income housing is realistically possible under the municipality's housing element and fair share plan.
- B. COAH estimated its first round of municipal fair share housing obligations in 1986 for the period 1987-1993. In 1994, COAH adopted a revised methodology and estimated its second round of cumulative municipal fair share housing obligations for the period 1987-1999. COAH has not yet proposed or adopted its third round methodology or estimated municipal fair share housing obligations for the period 1999 and beyond.
- C. COAH endorses the goal of municipal consolidation as a means of providing services and governance to residents of currently unconsolidated municipalities in a more efficient,

streamlined, and cost-effective manner. To assist municipalities considering consolidation, COAH adopted a policy in 1995 expressing the COAH intent that future fair share housing obligations would be neutral as to the effect of consolidation on municipalities that had consolidated.

- D. Both the Township and the Borough were defendants in separate lawsuits filed in Superior Court in 1984 under the *Mount Laurel* doctrine on exclusionary zoning and fair share housing obligations.
- E. The Township received a six year judgment of repose from Superior Court on June 19, 1989, in *Calton Homes, Inc., v. Township of Princeton, et al. (Mount Laurel II)*, Docket No. L-019451-84 P.W., which addressed the Township's first round fair share obligation.
- F. The Borough received a six year judgment of repose from Superior Court on October 9, 1990, in *Witherspoon Jackson Development Corporation v. Borough of Princeton et al. (Mount Laurel II)*, Docket No. L-37675-84, which addressed the Borough's first round fair share obligation and included a vacant land adjustment.
- G. The Township decided in 1995 to transfer jurisdiction for its fair share housing (*Mount Laurel*) obligation from the Superior Court to COAH. The Borough has remained under the jurisdiction of the Superior Court.
- H. The Regional Planning Board of Princeton adopted the *Princeton Community Master Plan, Housing Element Reexamination/Update*, on April 20, 1995 and September 7, 1995, which addressed the second round fair share obligations of the Township and Borough.
- I. The Township filed its housing element and fair share plan for its second round fair share obligation with COAH and petitioned COAH for substantive certification on June 13, 1995. No objections were filed. The petition is awaiting COAH action.

- J. The Borough is expected to move in the Spring of 1996 before the Hon. Eugene D. Serpentelli, A.J.S.C., for approval of its plan to address its second round fair share obligation and for a six year extension of its judgment of repose.
- K. The Princeton Consolidation Study Commission, authorized by separate referenda in the Borough and Township in November 1995, is currently examining whether the Borough and Township should be consolidated. The Consolidation Study Commission intends to issue its preliminary report, including a discussion of the issue of fair share housing obligations, in mid April 1996.

## **AGREEMENT**

1. The parties confirm that the first round net fair share housing obligation of the Township, as approved by the Superior Court in 1989, was 275 units.
2. The parties confirm that the first round net fair share housing obligation of the Borough, as approved by the Superior Court in 1990, was 34 units, including a vacant land adjustment.
3. The parties note that the Township's proposed second round fair share housing obligation, i.e., its "calculated need," is 73 units, as detailed in the 1995 *Princeton Community Master Plan, Housing Element Reexamination/Update*, subject to substantive certification now pending before COAH.
4. The parties note that the Borough's proposed second round fair share housing obligation, i.e., its "calculated need," is 25 units, including a vacant land adjustment, as detailed in the 1995 *Princeton Community Master Plan, Housing Element Reexamination/Update*, subject to approval by the Superior Court.
5. The parties agree that if the Borough and the Township decide to consolidate, then the next time COAH calculates fair share housing obligations, i.e., municipal low and

moderate income housing need, for the State's municipalities, the consolidated fair share housing obligation of the Borough and Township would be calculated in a two step manner that is neutral as to consolidation. Specifically, COAH's first step would be to calculate separately the fair share housing obligation of the then former Borough, including its vacant land adjustment, and the fair share housing obligation of the then former Township. COAH's second step would be to add the separate fair share obligations of the former Borough, with its vacant land adjustment, and the former Township, with any applicable adjustments, to establish the combined fair share obligation of the consolidated municipality.

6. The parties agree that if the Borough and Township decide to consolidate, then the consolidated municipality shall retain the right to seek any credits or adjustments to its fair share obligation in the same manner as any other municipality, to the extent such credits and adjustments are available to all municipalities in the state.
7. The parties understand that the methodology for calculating fair share housing obligations beyond 1999 has not yet been established by COAH. The parties understand that the fair share methodology for the period beyond 1999 may be completely different from the methodologies used by COAH to calculate fair share housing obligations for 1987-1993 and 1987-1999, and that, for example, a vacant land adjustment may not be included in the fair share methodology for the period beyond 1999. However, the parties agree that the intent and purpose of this Agreement is that the next calculation by COAH of fair share housing obligations shall be neutral as to consolidation.

IN WITNESS WHEREOF the parties have executed this Agreement on Consolidation and Fair Share as of the date set forth above:

NJ COUNCIL ON AFFORDABLE HOUSING

ATTEST:

Genevieve Peris  
COAH Secretary

BY: Harriet Derman  
Harriet Derman, Chairperson

ATTEST:

BOROUGH OF PRINCETON

Penelope S. Edwards-Carter  
Penelope S. Edwards-Carter  
Borough Clerk

BY: Marvin R. Reed  
Marvin Reed, Mayor

ATTEST:

TOWNSHIP OF PRINCETON

Ranicea C. Shuss

BY: Michele Tuck  
Michele Tuck, Mayor