

**PREPARED BY THE AFFORDABLE HOUSING PROGRAM:**

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| <p>In the Matter of <u>the Application of</u><br/><u>the Municipality of Princeton, the</u><br/><u>County of Mercer</u></p> | <p>Superior Court of New Jersey<br/>Law Division, Civil Part</p> <p>Docket No. MER-L-207-25</p> <p><b>Program Decision Recommendation -<br/>Housing Element and Fair Share Plan</b></p> |
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THIS MATTER, having come before the Affordable Housing Dispute Resolution Program (Program), pursuant to the Complaint for Declaratory Judgment filed in this matter (DJ Complaint) by the Petitioner, the Municipality of Princeton (Municipality), pursuant to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. (FHA), and in accordance with Administrative Directive #14-24 and its Addenda, seeking a certification of compliance with the FHA;

AND IT APPEARS that on March 25, 2025, the Hon. Robert Lougy entered an Order as follows:

- (a) Establishing the Municipality's Fourth Round "present need" at 60 units;
- (b) Establishing the Municipality's Fourth Round "prospective need" at 276 units;
- (c) Directing the Municipality to prepare and adopt a Housing Element and Fair Share Plan on or before June 30, 2025; and

(d) Granting the Municipality immunity from exclusionary zoning litigation; and

AND the Municipality having timely adopted and filed its Proposed Fourth Round Housing Element and Fair Share Plan (HEFSP);

AND a challenge(s) to the Municipality's Fourth Round HEFSP having been timely filed by the Princeton Coalition for Responsible Development ("PCRD") and by Sean Wilentz, Caroline Cleaves and James M. McPherson ("WCM");

And Princeton Theological having been permitted to intervene by order of the Hon. Robert T. Lougy on October 2, 2025;

AND interested party Fair Share Housing Center (FSHC) having expressed support for the Municipality's HEFSP and entered into a settlement agreement with the Municipality filed with the court on July 14, 2025.

AND the Program having appointed Special Adjudicator Christine A. Nazzaro-Cofone, AICP, PP to the matter;

AND the Program Member having conducted settlement conferences on October 3<sup>rd</sup>, 2025 and December 5<sup>th</sup>, 2025 at which time the Municipality and interested party FSHC reached a partial settlement;

AND the settlement terms include, but are not limited to the following:

(a) The Municipality's Present Need (Rehabilitation) Obligation is 60 units;

- (b) The Municipality's Prospective Need Obligation (2025-2035) is 364 units;
- (c) The Municipality's First and Second Rounds Obligations is 641 units;
- (d) The Municipality's Third Round Obligation (1999-2025) is 753 units;
- (e) The Municipality shall satisfy its Prior Round and Fourth Round Obligations as follows:

### **Prior Round Obligations**

| <b>MECHANISM</b>   | <b>TYPE</b> | <b>UNITS</b> | <b>BONUSES</b> | <b>TENURES</b> | <b>TOTAL</b> |
|--|-------------|--------------|----------------|----------------|--------------|
| Surplus from Third Round   |             | 44           |                |                | 44           |
| <b>Alternative Living Arrangements – Proposed</b>  |             |              |                |                |              |
| Municipally sponsored group homes (sites to be determined) – from Third Round; 8 to be completed during Fourth Round |             | 8            |                | Rental         | 8            |
| <b>Inclusionary Developments – Proposed</b>  |             |              |                |                |              |
| Hillier Properties (scattered sites on Witherspoon Street)   | Family      | 14           |                | Rental         | 14           |
| 145 Witherspoon Street   | Family      | 5            |                | Rental         | 5            |
| 364-366 Nassau Street, 11 N. Harrison Street (Block 32.01, lots 1, 173, 213, 221, 222, 223)                          | Family      | 26           |                | Rental         | 26           |
| The Jewish Center, 457 Nassau Street (Block 56.03, lot 170)  | Family      | 4            |                | Rental         | 4            |

|   |        |     |    |          |     |
|---|--------|-----|----|----------|-----|
| 245-247 Nassau Street<br>(Block 48.01, lot 5)                         | Family | 18  |    | Rental   | 18  |
| 40-42 North Tulane Street/32 Spring Street (Block 27.02, lots 47, 49) | Family | 8   |    | Rental   | 8   |
| 86-88, 92-94-96 Spruce Street<br>(Block 30.03, lots 64, 100)          | Family | 8   |    | Rental   | 8   |
| 11-33 State Road/60 Mt Lucas Road<br>(Block 7004, Lots 1 and 2)       | Family | 16  |    | Rental   | 16  |
| 29 Thanet (Block 5502, lot 5)   | Family | 17  |    | For Sale | 17  |
| Princeton Executive Center/Niksun<br>(Block 5502, lot 2)              | Family | 40  | 6  | Rental   | 46  |
| 100% Affordable Development – proposed                                |        |     |    |          |     |
| Chestnut Street Firehouse<br>(Block 30.02, lots 39.01 and 39.02)      | Family | 16  | 16 | Rental   | 32  |
| Harrison Street Firehouse and Garage<br>(Block 32.01, lot 167)        | Family | 34  | 34 | Rental   | 68  |
| John Street DPW Facility<br>(Block 6902, lot 29)                      | Family | 35  | 35 | Rental   | 70  |
| Total   |        | 293 | 31 |          | 384 |
| Less Fourth Round Combined Obligations                                |        |     |    |          | 364 |
| Potential Excess credits  |        |     |    |          | 20  |

AND the Municipality having represented it intends to adopt an Amended HEFSP in accordance with the terms of the settlement;

AND the Program Member having conducted a session on December 5th, 2025 during which oral argument was heard on the remaining challenge(s) to the Municipality's HEFSP of the interested party;

AND the Program Member having considered the filings by the parties, the recommendation of the Special Adjudicator and oral argument [and for the reasons more fully set forth in the attached Statement of Reasons] hereby recommends an ORDER directing that:

- (a) The terms of the settlement with FSHC be approved; and
- (b) The challenge(s) of the non-settling interested party(ies) be dismissed; and
- (c) In accordance with N.J.S.A. §52:27D-304.1(f)(2)(c), on or before March 15, 2026, the Municipality adopt and file its Amended HEFSP that contains the terms of the settlement as well as the implementing ordinances and resolutions proposed within the Amended HEFSP; and
- (d) Thereafter, the court schedule a Fairness and/or Compliance Hearing to consider approval of the Municipality's Amended HEFSP and the issuance of a Certification of Compliance and Repose; and
- (e) Grant the Municipality continued immunity from exclusionary zoning litigation for the duration of the compliance process conditioned upon the

Municipality's compliance with its order and good faith implementation of the Amended HEFSP and good faith participation in the compliance process.

**Respectfully Submitted by the Program:**

*By: /s/ Thomas C. Miller*

**Hon. Thomas C. Miller, J.S.C. Ret.**

Dated: February 10, 2026

**Program Member's Recommendation and Statement of Reasons  
Princeton Municipality  
MER-L-207-25**

**I. IN GENERAL**

The Princeton Municipality adopted its Fourth Round Housing Element and Fair Share Plan (“HE & FSP”) on June 26, 2025 and filed the same on June 27, 2025. The Municipality’s Fourth Round obligations are as follows:

Present Need: 60  
Prospective Need: 276

The Program’s Special Adjudicator in this matter is Christine Cofone-Navarro, P.P., A.I.C.P.

**II. BACKGROUND REGARDING THE CHALLENGES FILED IN THIS MATTER**

Two challenges to Princeton’s “HE & FSP” were filed by the Princeton Coalition for Responsible Development (“PCRD”) (Robert Simon, Esq. as Counsel) and by Sean Wilentz, Caroline Cleaves and James M. McPherson (“WCM”) (Bruce I. Afran, Esq. as Counsel). The record also indicates an appearance by Princeton Theological (“Theological”)<sup>1</sup>, as the owner of the property which is the subject of the challenges to the plan. “Theological” has made an appearance to support the municipal plan. The Fair Share Housing Center (“FSHC”) did not formally

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<sup>1</sup> Princeton Theological was permitted to intervene by order of Judge Robert T. Lougy on October 2, 2025.

challenge the plan, but it has expressed support for the municipalities “HE & FSP”. In fact, the “FSHC” entered into a settlement agreement with Princeton in a document filed in this matter on eCourts on July 14, 2025.

The portion of the municipal plan that is contested by the challengers calls for the development of 108 Stockton Street property with a 238 inclusionary project with 48 affordable units. The remaining portions of the Municipality’s Plan does not appear to be in issue.

The Challengers raise various objections to the inclusion of the Stockton Street property Town’s plan. First, the Challengers advocate that the plan fails to provide certain required information in order for the plan to be properly evaluated and for it to meet regulatory requirements.

“PCRD” outlined in the letter brief filed by their counsel dated August 29, 2025 that the municipal plan doesn’t permit a reasoned analysis of the plan to be considered. “PCRD” complained that without providing a sufficiently detailed site suitability analysis it is impossible to determine that the 108 Stockton Site is “available”, “approvable”, “developable” or “suitable” for the proposed inclusionary development. N.J.A.C. 5:93-1.3. As a result “PCRD” argues that the plan should be considered unapprovable since the Municipality has not made the required demonstration.

Notably, the “PCRD” has filed separate lawsuits that question whether the plan is consistent with sound land use planning principles. Those matters are not before this Program Member as the issues are currently pending before the Appellate Division.

The challenge filed by “WCM” involves challenges by long time Princeton residents Sean Wilentz<sup>2</sup>, Caroline Cleaves and James P. McPherson<sup>3</sup>. “WCM” argues that the 108 Stockton Property should be excluded and removed from Princeton’s Fourth Round Plan since the property is located in the Princeton Historic District which was listed on the State Register in 1973. “WCD” contends that NJAC 5:93-4.2(e)(3)(c) requires the exclusion of a State Registered site, thereby recognizing the legal protection of such sites.

With regards to the “WCM” objection that municipality counters that “WCM” misreads NJAC 5:93-4.2(e)(3)(c) that section only applies to towns that avail itself of a Vacant Land Adjustment (VLA) under the applicable rules and that Princeton has not sought a VLA. “WCM” counters that the policy that supports the regulation applies to the site in question whether a VLA is sought or not.

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<sup>2</sup> Professor Wilentz is the George Henry Davis 1886 Professor of American History at Princeton University

<sup>3</sup> Professor McPherson is the George Henry Davis 1886 Professor of American History Emeritus at Princeton University, specializing in the Civil War. He authored “Battle City of Freedom: The Civil War”, which won the 1988 Pulitzer Prize

### **III. REGARDING THE PROJECT IN ISSUE**

The “108 Stockton” project calls for the redevelopment of about 4.84 acres along the southeastern side of Stockton Street or what was formerly “Tennent-Roberts-Whitely” campus of the Princeton Theological Seminary. It formally contained the “Whitelby Gymnasium” on the Western side of Hibben Road. The eastern side of Hibben Road previously housed what was known as “Tennent Home” and “Roberts Hall”. In 2022 the improvements on those properties were demolished so that the site is currently vacant. Princeton disputes the proposition that the project even is an important historic site that is included in the State Historic Registry. In fact, Princeton contends that the site is not included in the Princeton Historic District mapping. In any event, Princeton asserts that “there is simply no designation that could prohibit the redevelopment of the vacant site with the inclusionary project proposed”.

### **IV. THE SESSION HELD BY THE PROGRAM**

After mediation was unsuccessful, a “hearing” or “session” was held by this Program Member on December 5, 2025. At that time, the Program Member considered the briefs and other documents filed by the parties in this matter as well as argument of counsel. Prior to the hearing, supplemental briefs were provided by both challengers and by the Borough. The Princeton Theological Seminary also filed a brief in support of the Borough’s plan.

In their brief, the “WCM” challengers assert that the inclusionary project, known as the “Seminary Project,” is proposed to be constructed in the Princeton Historic District “District”, which has been on the National and State Registries of historic places since 1973. “WCM” states that the district was designated because of its unique cultural qualities as being a center of American higher education and research. Also, the District was determined to be important to the American revolutionary and founding era. “WCM” argues that the proposed inclusionary project should not be permitted to be constructed in a historic district under prevailing New Jersey Law and/or public policy.

“WCM” contends that the public policy enumerated in the Mount Laurel Doctrine should be weighed against environmental and open space considerations, as well as other considerations such as historic preservation. They properly point out that this project involves conflicting public policies as it pits affordable housing interests that may be in conflict with Historic preservation and recognition. (See NJSA 40:550-2(g)), which recognizes historic preservation as an express goal to be promoted in land use planning matters).

“WCM” concludes that since the “Seminary Project” is located in a registered Historic District and as such it should be considered relative to the letter of the law and the purpose and spirit of the public policy that has been clearly expressed in our State along with the public policy supporting affordable housing. They urge that the

project be excluded from the Borough's proposed plan. Challenger "PCRD" joins in that position.

In addition, "WCM" contends that the Princeton Historic District is a "Historic Site" as that term is understood under New Jersey law. As part of that contention "WCM" seems to advocate that the New Jersey's Historic Sites Council has jurisdiction over the land and/or the Project.

"PCRD" supplements the arguments raised by "WCM". It states that the Municipality already has a Judgment of Compliance and Repose ("JOR") so that it is unnecessary for them to add to its Third Round compliance mechanisms. In other words, it contends that it doesn't need to include this site in its plan.

"PCRD" also argues that the Municipality has not demonstrated or in fact provided necessary documentation that could demonstrate the suitability of the site for the "intense" development that is proposed.

The "FSHC," which is the only non-profit agency that has been recognized by the Supreme Court as an entity that represents the interests of the low and moderate income households in New Jersey, has indicated that it supports the Borough's plan. As noted above, the "FSHC" has entered into a written settlement agreement which includes its endorsement of Princeton's plan, which includes the inclusion of the 108 Stockton Street property.

## **V. PROGRAM MEMBER RECOMMENDATION**

The issues raised in this matter present interesting and complex issues regarding the relationship and possible conflict of these two public policies that have been recognized in our law. After careful consideration, however, this Program Member recommends that the Municipality's HE&FSP be approved by the local Mount Laurel Judge. While this case calls for a balance of competing beneficial public policies, the policy in favor of affordable housing is one that emanates from a constitutional mandate recognized repeatedly in our law. As a result, the scales must lean in that direction.

Also the Program Member notes that the protection of historic interests are addressed in various statutes and regulations. The fact that the proposed project be included in the Plan and that it can then proceed through the development process does not mean that the process and protections that are designed to protect or promote historic sites will be ignored. Certainly, those protections will be part of the public approval process for the project, thereby giving the proponents of those interests a right to express their positions and have them addressed by the local approving agencies.

As part of that determination, this Program member recognizes and expects that the approval process will act as a safety net to make sure that proper consideration be given to any development proposal. The vetting process will “air”

and address the sensitive issues that are raised by the particular location of the project in the Municipality. That process should be permitted to proceed in order to determine if a suitable and affordable project that is compatible with its surroundings can be designed and approved.

It is not within this Program member's province to determine what role, if any, the Historic Site Council will play in the development process. It is clear that the challengers will seek redress from that agency. Navigating the Historic Sites Council may be one of the agency approvals that any developer may have to hurdle. If any of the required approvals cannot be secured, that circumstance may bear on whether the project is realistic or achievable.

The Program Member notes that program Special Adjudicator Cofone-Navarro has recommended that the Municipality's HE&FSP be recommended for approval in her report dated December 8,2026. In this Program Member's view, the 108 Stockton Street inclusionary development has been comprehensively planned and it is supported by an adopted Redevelopment Plan and executed Redevelopment and Financial Agreements, Further, as noted above it has been endorsed by the FSHC. This Member agrees with Ms. Cofone that the site is approvable, available, developable and suitable. The project is set to deliver 48 affordable homes in a highly suitable location that is proximate to transit, services, and employment opportunities.

For all of those reasons the Program Member recommends approval of the Municipality's prepped HE&FSP and that the Municipality's immunity from Builders Remedies Suits be continued. The Settlement Agreement establishes a clear, internally consistent, and legally sufficient framework for satisfaction of the Municipality's cumulative affordable housing obligation.

This Program Member also recommends that the challenges of the non-settling interested parties be dismissed. Neither objection raises issues that would warrant modification of the Settlement Agreement's compliance framework.

This finding and recommendation is subject to further judicial review in accordance with applicable law and Administrative Directive #14-24, Civil-Affordable Housing Dispute Resolution Program-Implementation of L.2024,c.1.(Dec.13,2024). Such review may include the scheduling of a HEFSP Confirmation Hearing (or, if and as may later be determined necessary by the Mt. Laurel judge, a Fairness and/or Compliance Hearing) to consider approval of the Municipality's Amended HEFSP and issuance of a Certificate of Compliance and Repose.



*Via eCourts and Electronic Mail*

**Honorable Thomas C. Miller, A.J.S.C. (Ret.)**  
**Affordable Housing Dispute Resolution Program**  
 Richard J. Hughes Justice Complex  
 P.O. Box 037  
 Trenton, New Jersey 08625

Re: *In the Matter of the Application of the Municipality of Princeton, County of Mercer*  
 Docket No. MER-L-207-25

Your Honor:

I submit this letter in my capacity as Special Adjudicator to provide the Court with my professional review of the fully executed Fourth Round Affordable Housing Settlement Agreement, executed on June 26, 2025, between the Municipality of Princeton (“Princeton”) and Fair Share Housing Center (“FSHC”), entered into under the Affordable Housing Dispute Resolution Program (the “Program”). This review is conducted pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, and addresses whether the Agreement establishes a clear, legally sufficient, and enforceable framework for satisfaction of Princeton’s cumulative affordable housing obligations.

### **Procedural Posture**

Princeton adopted a binding resolution electing participation in the Program and timely filed this declaratory judgment action pursuant to P.L. 2024, c. 2. By Order of the Court dated March 25, 2025, Princeton’s Fourth Round Present Need and Prospective Need obligations were fixed by default, and the Municipality was directed to prepare and adopt a Fourth Round Housing Element and Fair Share Plan (“HEFSP”).

Princeton thereafter adopted its Fourth Round HEFSP, engaged in structured negotiations with FSHC, and executed the Settlement Agreement now before the Court. The Agreement resolves Fourth Round compliance while also addressing the reconciliation and carry-forward of unmet obligations from prior planning cycles, including those attributable to the former Borough and Township of Princeton.

## Pending Third Party Objections

Two third-party objections remain pending with respect to Princeton's Fourth Round affordable housing compliance, both of which I have reviewed in my capacity as Special Adjudicator. A central component of the Settlement Agreement is the 108 Stockton Street inclusionary redevelopment, which is supported by an adopted Redevelopment Plan, executed Redevelopment and Financial Agreements, and endorsement by Fair Share Housing Center in the June 26, 2025 Settlement Agreement; consistent with N.J.A.C. 5:93-1.3 and 5:93-5.3, the site is approvable, available, developable, and suitable for affordable housing and will deliver 48 affordable homes.

The objection filed by Sean Wilentz, Caroline Cleaves, and James M. McPherson relies on inapplicable regulatory provisions, while the objection filed by the Princeton Coalition for Responsible Development asserts requirements not found in the Fair Housing Act or COAH rules; any claim of legal uncertainty has been resolved by the October 21, 2025 Order of Judge Lougy upholding the Redevelopment Plan. Based on my review, neither objection raises issues that would warrant modification of the Settlement Agreement's compliance framework.

## Affordable Housing Obligations and Consolidated Accounting

The Agreement establishes a comprehensive, cycle-integrated accounting of Princeton's affordable housing obligations, identifying the following:

- Fourth Round Present Need (rehabilitation): 60 units
- 1987–1999 Prior Round obligation: 641 units (combined Borough and Township)
- 1999–2025 Third Round obligation: 753 units
- 2025–2035 Fourth Round Prospective Need: 276 units

Following application of approved credits, completed developments, surplus credits, bonus credits lawfully earned in prior rounds, and updated Realistic Development Potential (“RDP”), the Agreement documents a remaining Prior Round unmet need of 88 units. The Prior Round and Third Round Realistic Development Potential (“RDP”) reflected in the Agreement was previously reviewed and approved by the Court during the Third Round proceedings and is carried forward into the Fourth Round compliance framework. The Agreement resolves that this remaining Prior Round need is to be addressed together with Fourth Round Prospective Need, yielding a combined Fourth Round compliance obligation of 364 units.

This consolidated accounting eliminates ambiguity regarding outstanding obligations and establishes a single, unified Fourth Round compliance framework consistent with the amended Fair Housing Act.

## Fourth Round Compliance Framework

### Present Need (Rehabilitation)

The Agreement provides for satisfaction of Princeton's Fourth Round Present Need obligation through a dual mechanism:

1. A funding and implementation arrangement with the Princeton Housing Authority to rehabilitate 60 existing units; and
2. Continued administration of a municipal rehabilitation program for rental and ownership units.

Credit recognition is conditioned on documented compliance with applicable rehabilitation standards, including N.J.A.C. 5:93-5.2 and N.J.A.C. 5:97-6.2, and submission of required program documentation to the Program. These provisions satisfy statutory requirements for Fourth Round Present Need compliance.

### **Fourth Round Prospective Need and Remaining Prior Round Need**

The Agreement addresses Princeton's combined Fourth Round Prospective Need and remaining Prior Round unmet need through identified, enforceable compliance mechanisms, rather than generalized zoning capacity.

The compliance framework includes:

- Application of lawfully earned surplus credits carried forward from prior rounds;
- Municipally sponsored and 100% affordable developments, including projects on municipally owned or controlled sites, subject to funding, scheduling, and site-suitability requirements;
- Inclusionary development mechanisms tied to specific parcels, redevelopment areas, or zoning districts with mandatory affordable set-asides; and
- Alternative living arrangements and supportive housing, implemented through ordinance-based authorization and subject to affordability controls.

For all unbuilt or proposed sites, the Agreement conditions credit recognition on adoption of implementing zoning ordinances, execution of developer or affordable housing agreements, demonstration of site suitability, identification of funding sources where required, submission of construction schedules, and timely filing of supporting documentation with the Program. These conditions ensure that each mechanism constitutes a realistic opportunity for affordable housing under Mount Laurel jurisprudence and the amended Fair Housing Act.

### **Fourth Round Statutory Controls and Limitations**

The Agreement incorporates all applicable Fourth Round statutory requirements, including:

- Elimination of rental bonus credits in the Fourth Round;

- Limitation of bonus credits to those authorized by statute, subject to the 25 percent cap on Fourth Round Prospective Need;
- Compliance with statutory caps on age-restricted housing;
- Satisfaction of minimum family-housing and rental-housing requirements; and
- Provision of very-low-income units in accordance with N.J.S.A. 52:27D-329.1.

All affordable units are required to comply with the Uniform Housing Affordability Controls (UHAC), including income distribution, bedroom mix, duration of controls, affirmative marketing, and administrative oversight. The Agreement further requires Princeton to amend or update its affordable housing ordinances and administrative documents as necessary to maintain consistency with current UHAC standards.

### **Implementation, Monitoring, and Enforcement**

The Agreement establishes clear, enforceable implementation milestones aligned with statutory deadlines. Upon issuance of a compliance certification by the Program, Princeton is required to adopt all implementing ordinances within 45 days, and in all events no later than March 31, 2026, subject to statutory adjustments if a challenge is filed.

The Agreement further provides for:

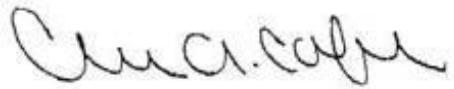
- Annual monitoring and reporting;
- Submission of compliance documentation to the Program;
- Participation in the statutory midpoint realistic opportunity review; and
- Enforcement through mechanisms authorized under the Fair Housing Act, ensuring judicial durability.

### **Professional Opinion and Recommendation**

Based upon my review, it is my professional opinion that the Settlement Agreement establishes a clear, internally consistent, and legally sufficient framework for satisfaction of Princeton's cumulative affordable housing obligations. The Agreement fully accounts for Prior Round, Third Round, and Fourth Round obligations; identifies realistic, statute-compliant Fourth Round compliance mechanisms; and incorporates enforceable implementation, monitoring, and enforcement provisions consistent with P.L. 2024, c. 2 and Administrative Directive #14-24.

Accordingly, I respectfully recommend that the Court approve the Fourth Round Settlement Agreement for the Municipality of Princeton and permit the matter to proceed through the Affordable Housing Dispute Resolution Program toward issuance of a final compliance certification, subject to satisfaction of the Agreement's stated enactment requirements and conditions.

Respectfully submitted,



Christine A. Nazzaro-Cofone, AICP, PP  
Special Adjudicator