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March 22, 2019

Via E-Filing Only

Hon. Robert H. Gardner, J.S.C.
Superior Court of New Jersey
Essex County History Courthouse
470 Dr. Martin Luther King Blvd.
Newark, NJ 07102

***RE: In All Declaratory Judgment Actions Filed
by Various Municipalities, County of Essex,
Pursuant to the Supreme Court's Decision In
re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015)
Docket No.: ESX-L-4173-15***

Dear Judge Gardner:

As Your Honor may be aware, this firm represents the Township of Verona ("Verona"), with respect to the above referenced matter. Kindly accept this letter brief, in lieu of a more formal submission, in Opposition to Defendant/Intervenors Bobcar Corporation, Neil Joy Associates and Forsons Partners, LLC's (collectively referred to as "Bobcar") Motion to revoke the Township of Verona's temporary immunity.

Verona has negotiated with all three defendant/intervenors, Spectrum, Poekel, and Bobcar, in good faith, and should not be stripped of its temporary immunity, and certainly not prior to the Fairness Hearing scheduled before Your Honor on March 29, 2019.

PRELIMINARY STATEMENT

Bobcar's latest Motion to revoke Verona's temporary immunity is based upon allegations that Verona has not made any progress towards compliance with its COAH obligation. In support of its argument, BobCar alleges that, i) Verona has failed to submit a compliance plan to the court, ii) and has made no progress towards compliance.

While it is true that Verona has not submitted a compliance plan yet, its failure to do so is based not upon a disregard of its obligation to provide a realistic opportunity for low and moderate income housing but rather because of its continued desire to achieve compliance in the way that is most beneficial for all of its residents. At the time of the hearing of Bobear's last Motion to Strip the Township of Immunity, November 30, 2018, the court and intervenors were provided with details of the Township's desire to purchase property that had recently become available in order to construct a one hundred (100%) percent affordable housing development. At the time of the last hearing, the Township had introduced and passed on first reading, a Bond Ordinance in the amount of \$2,952,000.00 to finance the acquisition of that property. Now, approximately four (4) months later, the Township has:

1. Adopted the Ordinance authorizing the sale of \$2,952,000.00 in bonds;
 2. Executed a Contract of Sale with the property owner;
 3. Has performed all necessary due diligence in order to take title to the property;
- and
4. Closed on the purchase, thereby securing land in an appropriate area for the development of low and moderate income housing.

In addition, the Township has been in ongoing negotiations with a developer, CHA Partners, to develop the site with a one hundred (100%) percent affordable housing complex of at least 100 units..

Verona submits that it is obligated to craft the best and most advantageous settlement for its residents, and not merely try to achieve a settlement as quickly as possible. Numerous other municipalities have also not yet settled with defendant/intervenors or the Fair Share Housing Center ("FSHC") regarding their Fair Share obligations, and have yet to submit compliance plans

or change their Zoning Ordinances. Verona's conduct is specifically permitted by the Supreme Court during negotiations to determine Fair Share Housing Obligations.

Verona has negotiated with all three defendant/intervenors, Spectrum, Poekel, and Bobear, in good faith, and through the process of negotiating it was determined Verona could meet its obligation with the property of Poekel together with the purchase and development of a site for one hundred percent affordable units and either the construction of low and moderate units or a contribution in lieu thereof by Spectrum 360, another Intervenor. This is well within the authority and discretion of Verona's governing body to do, and the mere fact that the Township has chosen this alternative to meet its obligation does not warrant or justify revoking Verona's temporary immunity.

PROCEDURAL HISTORY

In the interest of judicial economy, Verona hereby adopts the Procedural History as outlined by Bobear in its moving papers.

LEGAL ARGUMENT

POINT I

VERONA IS ENTITLED TO CONTINUED IMMUNITY

A municipality is entitled to immunity throughout the declaratory judgment process so long as it demonstrates a good faith effort to comply with its fair share obligation.

Towns that were in "participating" status before COAH and that come before the courts seeking to obtain approval of an affordable housing plan should receive like treatment to that which was afforded by the FHA to towns that had their exclusionary zoning cases transferred to COAH when the Act was passed. *See N.J.S.A. 52:27D-316*. Such towns received insulating protection due to COAH's jurisdiction provided that they prepared and filed a housing element

and fair share plan within five months. *Id.* Similarly, towns that were in “participating” status before COAH and that now affirmatively seek to obtain a court declaration that their affordable housing plans are presumptively valid should have no more than five months in which to submit their supplemental housing element and affordable housing plan. During that period, the court may provide initial immunity preventing any exclusionary zoning actions from proceeding. *In re adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing*, 221 N.J. 1(2015)(“*Mt. Laurel II*”)

As in the case of the towns that had been awarded substantive certification from COAH, the “participating” towns will have the choice to proceed with their own actions during the thirty-day period post the effective date of our order before which challenges to constitutional compliance may be brought by FSHC or other interested parties. *Id.* If a town elects to wait until its affordable housing plan is challenged for constitutional compliance, immunity requests covering any period of time during the court's review shall be assessed on an individualized basis. *Id.* The five-month protected period for submitting a housing element and plan, identified earlier, has no parallelism in this setting. *Id.* In determining whether to grant such a town a period of immunity while responding to a constitutional compliance action, the court's individualized assessment should evaluate the extent of the obligation and the steps, if any, taken toward compliance with that obligation. *Id.* In connection with that, the factors that may be relevant, in addition to assessing current conditions within the community, include whether a housing element has been adopted, any activity that has occurred in the town affecting need, and progress in satisfying past obligations. *Id.*

Thus, in all constitutional compliance cases to be brought before the courts, on notice and opportunity to be heard, the trial court may enter temporary periods of immunity prohibiting

exclusionary zoning actions from proceeding pending the court's determination of the municipality's presumptive compliance with its affordable housing obligation. *Id.* Immunity, once granted, should not continue for an undefined period of time; rather, the trial court's orders in furtherance of establishing municipal affordable housing obligations and compliance should include a brief, finite period of continued immunity, *allowing a reasonable time as determined by the court for the municipality to achieve compliance. Id.*

In the end, a court reviewing the submission of a town that had participating status before COAH will have to render an individualized assessment of the town's housing element and affordable housing plan based on the court's determination of present and prospective regional need for affordable housing applicable to that municipality. *Id.* A preliminary judicial determination of the present and prospective need will assist in assessing the good faith and legitimacy of the town's plan, as proposed and as supplemented during the processes authorized under the FHA—conciliation, mediation, and use of special masters—and employed in the court's discretion. *Id.* **Only after a court has had the opportunity to fully address constitutional compliance and has found constitutional compliance wanting shall it permit exclusionary zoning actions and any builder's remedy to proceed. *Id.***

Bobcar's Motion to revoke Verona's temporary immunity rests on three grounds:

i) Verona has failed to submit a compliance plan to the court, ii) Verona has failed to amend its Zoning Ordinance to require any affordable housing set aside for new residential developments, and iii) Verona has made no progress towards compliance.

A) Verona Is Not Required to Submit a Compliance Plan with the Court nor Amend its Zoning Ordinance during Active Negotiations to Determine and Settle its Fair Share Housing Obligation

Verona has not submitted a compliance plan or changed its Zoning Ordinance because it did not know what methodology would be used to calculate same and, until recently, was still negotiating with the defendants/intervenors in this matter as well as reviewing all reasonable methods of compliance.

In this regard, Verona is like numerous other municipalities which have also not yet settled with defendants/intervenors or the Fair Share Housing Center regarding their Fair Share obligations, and have yet to submit compliance plans or change their Zoning Ordinances. Verona's conduct is specifically permitted by the Supreme Court during negotiations to determine Fair Share Housing Obligations.

It is also important to note that there is still no judicially sanctioned fair share obligation for Verona. Verona has based its obligation upon the methodology contained in the decision of the Honorable Mary C. Jacobson in the Mercer County decisions titled "In the Matter of the Application of the Municipality of Princeton" and "In the Matter of West Windsor Township," docket nos. MER-L-1550-15 and MER-L-1561-15. That decision was issued just over one (1) year ago. While not necessarily serving as precedent for the instant matter, the decision provides a methodology that has allowed Verona and the defendants/ intervenors to make informed decisions based upon the findings of Judge Jacobson. In addition, it appears likely that the methodology used in the West Windsor matter will be accepted by the Fair Share Housing Center and has, in fact, been used as the basis of settlement in other municipalities.

Verona and its residents should not be punished for failing to take action that it is unable to take until negotiations and the Fairness Hearing has concluded. This is particularly true when Verona has carried a surplus of affordable units for decades and has been pursuing all reasonable means to achieve compliance.

B) Verona has made substantial progress towards meeting its fair share obligation.

The movant's allegations that Verona has made no progress towards compliance is not accurate. The Township has a signed agreement with one of the intervenors, Poekel Properties, LLC, to permit construction of inclusionary developments that will generate a total of ten (10) credits. Verona is also entitled to a total of nine (9) credits for existing homes for the developmentally disabled. When added to the existing credits that the intervenor admits the Township is entitled to, namely fifty nine (59) units of credit for Verona Senior Housing, Verona will have provided for seventy eight (78) of its required two hundred thirty eight (238) units. The remainder of Verona's obligation will be provided in a one hundred (100%) percent affordable housing complex on land recently purchased by the Township. Therefore, the movant's statement that "the Township has not made any meaningful effort to comply with its fair share obligation" is simply untrue.

Verona is confident that it can meet its fair share obligation, without seeking a vacant land adjustment, using the following credits :

1. Affordable units from the Hillwood development, an existing development containing 159 units which are all low and moderate income. Verona and the owner of that development entered into an agreement in 2010 maintaining its low and moderate reduction for thirty years the Township should receive credit for at least 59 units from this development :
2. Credit for ten (10) units in a project to be developed by Poekel Properties, LLC, an Intervenor in this case:
3. Credit for a four-bedroom group home already located in Verona being run by ARC of Essex County; and

4. Credit for three (3) units in Project Live X located at 26 Mt. Prospect Avenue, Verona, N.J.;
5. Credit for two (2) units run by Jewish Services for the Developmentally Disabled of Metrowest on Wedgewood Drive;
6. Credit for a one hundred percent (100%) affordable housing unit project on land acquired by the Township specifically for that purpose of at least one hundred (100) units.
7. A bonus of sixty (60) credits for the rental units being developed by Verona on the Cameco property.

Based upon Verona's calculation of the credits it will be entitled to, it meets its fair share obligation set forth above. The status of each of the credits set forth above will be discussed in turn.

Verona Senior Apartments (Hillwood)

The Township has been the location of the Verona Senior Apartments since 1981. The entire one hundred fifty nine (159) unit complex is subject to affordability controls and is also age restricted. Because of the age restricted nature of the complex, the Township will be able to claim twenty five per cent of its total need, or fifty nine (59) units of credits for this existing development

Poekel Properties, LLC

The Township has also negotiated and signed an agreement with Poekel Properties, LLC, also an Intervenor in this matter. The Poekel tract consists of 2.7 acres having an address of 860 Bloomfield Avenue, Verona, New Jersey. The Township and Poekel have fully negotiated a Settlement Agreement which requires Poekel to construct and deed restrict twenty (20%) percent

of the individual units in the development as very low, low or moderate income affordable units. Due to the size of the overall development, this will equal ten (10) credits towards the Township's obligation. The Settlement Agreement implementing the terms has been signed by both parties. (See Cavallo's Certification at ¶3).

Group Homes

The Township is the site of an existing home, known as Project Live X which contains three (3) units and is, therefore, eligible for three (3) credits, which has already been recognized and are set forth in the "New Jersey Guide to Affordable Housing". In addition, although not set forth at in that publication, there are at least two (2) other group homes located in Verona and for which the Township is entitled to credit. One is the ARC of Essex County property located on Bloomfield Avenue in Verona, New Jersey. The information regarding that property, including its Department of Human Services License for 2018 has been supplied to the Court Appointed Master in this matter, Elizabeth McManus, and the Township should be entitled to an additional four (4) credits for this property. The other group home is located on Wedgewood Avenue in Verona and is run by Jewish Services for the Developmentally Disabled of Metrowest. It contains two bedrooms and thus should entitle the Township to two additional credits. Ms. McManus has been provided with the 2018 licenses from the Department of Human Resources as well.

Cameco

The Township became aware during this past summer that a large tract of land along Bloomfield Avenue, which had been developed and used for decades as a commercial establishment, would be made available for sale to the Township. After exchanging appraisals and negotiating the sale price, an agreement was made whereby the Township agreed to purchase the property, and the Township Manager was authorized to sign the Contract of Sale. At the

time of the last motion, Verona had introduced a bond ordinance to finance the purchase of that property. Since then, the bond ordinance has been adopted, the contract of sale was signed, the Township performed its due diligence investigation of the property and, on March 13, 2019, the Township closed title on the property. (Cavallo Certification ¶8-11).

The Cameco site is directly adjacent to a property which is already owned by the Township which, in turn, is adjacent to the property which is owned and will be developed by Poekel Properties, LLC. As set forth in Cavallo's certification, at ¶6, the Township acquired the Cameco site specifically in order to provide a one hundred (100%) percent affordable housing development. The Cameco site, together with the existing, adjacent, Township property is nearly as large as the Poekel site, and is large enough to accommodate the remaining affordable housing needs of the Township. Since acquiring the Cameco site, the Township has been actively negotiating with a developer, CHA Partners, to construct a one hundred (100%) percent affordable housing complex on the site containing at least one hundred (100) housing units. CHA Partners has experience in building low and moderate housing projects in New Jersey. (See Cavallo Certification ¶13). After several meeting, CHA determined that the Cameco site can be developed with one hundred (100). (See Cavallo Certification ¶14-15).

Concurrently with its negotiations with CHA Partners, the Township directed its Planning Board to conduct an investigation on whether Block 2301, Lots 1 through 9, qualified to be designated as an area in need of redevelopment. That area encompasses the Cameco property, the property owned by Intervenor, Poekel Properties, LLC as well as certain property owned by the County of Essex. On February 6, 2019, the Verona Planning Board conducted a special meeting and determined that the proposed area met the criteria to qualify as an area in need of redevelopment. (See Cavallo Certification ¶8-9).

Within a week of receiving the Planning Board's recommendation, the Township Council designated the proposed area as a non-condemnation redevelopment area on February 11, 2019. (See Cavallo Certification ¶10).

In addition, the Township has been actively negotiating with the County of Essex to acquire a strip of County land which is adjacent to the Poekel and Cameco sites. (See Cavallo Certification ¶12) for the purpose of consolidating that property with the adjacent property owned by the Township. The Township has also been negotiating with Intervenor Poekel to reconfigure and resubdivide the consolidated properties of Cameco, Poekel and, if acquired, the County, in order to better accommodate both Poekel's mixed use project and Verona's low and moderate income development. (See Cavallo Certification ¶16).

Finally, the Township Planner has prepared a draft redevelopment plan for the area and it is anticipated that it will be introduced by the Township Council and referred to the Planning Board on April 8, 2019. The Township will be seeking to finally adopt the redevelopment plan in late April 2019. After adoption of the redevelopment plan, Verona intends to engage CHA Partners as the redeveloper for the purpose of constructing low and moderate income housing on the Cameco site.

C) The Township of Verona has adopted a mandatory set aside ordinance.

As set forth in the earlier Certification of Township Manager, Matthew Cavallo, the Township adopted a mandatory set aside ordinance on October 15, 2018. The ordinance itself was attached as Exhibit "A" to Cavallo's certification. Therefore, any further development of five (5) or more units within the Township of Verona will need to include a mandatory set aside for low and moderate income units.

POINT II

THE CASES CITED BY BOBCAR DEMONSTRATING BAD FAITH ARE FACTUALLY DISTINCT FROM THE PRESENT MATTER

Defendant cites to three cases that outline instances the Court has revoked municipalities immunity for "bad faith." All three cases show egregious behavior on part of the municipality in an attempt to permanently forego or skirt compliance with their housing obligations, whereas Verona has been diligently working towards settlement and compliance should be obtained in the very near future.

The Court revoked immunity for the Township of South Brunswick for its refusal to remedy and/or remove deficiencies in its HEFSP. The Court stated the municipality "was not proceeding in good faith, and was **'determined to be non-compliant.'**" *In re Township of South Brunswick*, 448 N.J. Super 441, 450-451 (Law Div. 2016). The Court also noted that "because of [its] **systematic 'abuses' of the declaratory judgment process...** the Township stands in a far less favorable position than it would have had it preceded with 'good faith'..." *Id.* at 466.

Verona's has not "refused" to remedy any deficiencies in its HEFSP, and is confident it will be compliant with its obligation in the near future. This hardly rises to the level of being "determined to be non-compliant" or "abusing" the declaratory judgment process as outlined in *Township of South Brunswick*.

Verona, though its Manager and professionals, has met numerous times with all three intervenors and has actively participated in settlement negotiations. As proof of its good faith, Verona and Spectrum 360, LLC, an intervenor, have agreed to a plan that will provide 60 affordable rental units. The written agreement embodying the terms of the settlement is currently being negotiated. In addition, the Township has also reached agreement with another intervenor, Poekel Properties, LLC, on a plan that will provide 10 affordable rental units.

Verona has also begun the process of acquiring land, at significant cost to its taxpayers, for the express purpose of creating a one hundred per cent affordable housing complex on the Township's main thoroughfare.

Verona believes it has not only the right, but an obligation, to provide for its fair share obligation in a manner which is most beneficial to its residents and taxpayers while still accommodating its need to provide low and moderate income housing.

The Court in Township of South Brunswick further noted that builder's remedy actions are permitted "where the declaratory judgment review process was 'abused,' became 'unreasonably protected' or where the Township's proposed manner of compliance was 'constitutionally wanting.'" *Id.*

Verona has not "abused" nor "unreasonably protected" the declaratory judgment process. To the contrary, Verona is nearing a satisfaction of its obligation and anticipates same will be accomplished before its Fairness Hearing.

The Township of Cranford was found to have failed to comply with its fair share housing obligation due to their HEFSP being "seriously deficient" in terms of its fair share obligation. *Cranford Development Associates, LLC v. Township of Cranford*, 445 N.J. Super. 220, 224-225 (App. Div. 2016).

Most importantly, the Court only allowed a builders remedy suit ***"provided the lawsuit demonstrates that the municipality's current failure to comply with its affordable housing obligation."*** *Toll Bros v. Twp. of W. Windsor*, 173 N.J. 502, 560 (2002).

Again, it is impossible to demonstrate that Verona has failed to comply with its obligation, as its obligation will not be known until the Fairness Hearing is conducted.

CONCLUSION

Based upon the foregoing, Verona respectfully requests that the Court deny Defendant/Intervenor Bobear's Motion to revoke Verona's temporary immunity.

Respectfully submitted.

GIBLIN & GANNAIO, ESQS.

By:


Brian T. Giblin, Sr

EXHIBIT A

GIBLIN & GANNAIO ESQS.
Two Forest Avenue
Oradell, New Jersey 07649
(201) 262-9500
Attorneys for Plaintiff/Petitioner
Attorney I.D. 027001990

IN THE MATTER OF THE TOWNSHIP
OF VERONA, a municipal corporation
of the State of New Jersey

Plaintiff/Petitioner.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY**

Docket No. L-4773-15

CIVIL ACTION
(Mount Laurel)

CERTIFICATION OF MATTHEW CAVALLO

I, Matthew Cavallo, of full age do hereby certify as follows:

1. I am the Township Manager for the Township of Verona and, under its form of government, I am responsible for the day to day operation of the Township.

2. I have been the Township Manager since December 1, 2015 and am fully familiar with all of the facts set forth herein.

3. I have personally attended all but two of the negotiation sessions between the Township and the various intervenors and have personally been in attendance several times this matter has been heard by the Honorable Robert H. Gardner, J.S.C.

4. Since the Court's denial of this intervenor's prior motion a few months ago requesting the identical relief, the Township has made significant strides in achieving compliance.

5. On September 17, 2018, the Township introduced an Ordinance creating a mandatory set-aside for affordable housing within the Township of Verona. That Ordinance, which was adopted on October 15, 2018, is attached hereto as Exhibit A.

6. Pursuant to the terms of that Ordinance, any residential development of greater than five (5) units would be subject to a mandatory set-aside for low and moderate income housing.

7. The Township also became aware, several months ago, that a property owner known as Cameco, desired to cease operation of its commercial establishment in the Township and desired to sell the property to the Township.

8. The Cameco property, which contains approximately 2.2 acres, has substantial frontage on Bloomfield Avenue, although it has an address of Pine Street.

9. The Cameco site is also adjacent to a vacant parcel of property that the Township already owns and the sites, when combined, will contain approximately 2.5 acres.

10. The consolidated site will also be adjacent to the Poekel property, which is owned by Poekel Properties, an intervenor in the instant matter, and which the Township has already negotiated a settlement with, which will create ten (10) affordable units as part of its development of the site with forty nine (49) rental as well as 6,395 square feet of commercial space on the ground floor.

11. On November 10, 2018, the Mayor and Council of the Township of Verona held a special meeting and adopted on introduction Ordinance #2018-34, attached as Exhibit B.

12. That Ordinance permits the Township to bond \$2,952,000.00 in order pay for the cost of acquisition of the Cameco property and appropriates the total sum of \$3,100,000.00 to accomplish same. That Ordinance will be adopted after a public hearing on December 3, 2018.

13. Most recently, at a meeting held on November 19, 2018, the Mayor and Council of the Township of Verona passed Resolution #2018-150, attached as Exhibit C, which authorized me to execute the Purchase and Sale Agreement for the Cameco property subject only to any reasonable amendments recommended by the Township Attorney.

14. It is the Township's intention to establish a one hundred (100%) percent affordable housing complex on the Cameco site after its acquisition. Although plans have not yet been prepared for the development, a reasonable density for that site would yield approximately fifty (50) low and moderate income housing units.

15. The Mayor and Council have determined that the substantial financial commitment of purchasing and developing the Cameco site is a preferable alternative to allowing the Intervenor, BobCar Corporation, Neil Joy Associates and Forson's Partners, LLC, (hereinafter "Bobcar") to develop their two (2) parcels for a number of reasons.

16. Firstly, the location of the Cameco property on Bloomfield Avenue makes it much more convenient to mass transportation than either of the sites owned by the BobCar intervenors.

17. Secondly, the Cameco site is located on the main commercial thoroughfare of the Township and will be much more convenient for residents to have access to various goods and services.

18. Thirdly, the traffic generated by the development will imperceptible to the existing traffic on Bloomfield Avenue which is the most heavily travelled road in the Township.

19. The BobCar sites, to the contrary, would have to be five (5) times as large in order to provide a similar number of low and moderate income units and would, therefore, generate substantially more traffic in an area which is ill equipped to handle it. In fact, there is already substantial traffic congestion in the area of both of the BobCar intervenor's sites. Furthermore, neither of BobCar's properties are located near any accessible mass transit and neither is located in an area that is convenient to retail establishments

20. For the above reasons, the Mayor and Council have directed me to, as quickly as possible, acquire the Cameco site and negotiate with a Developer to construct a one hundred percent (100%) affordable housing complex on the site which will contain enough units to

satisfy, at a minimum, the remainder of the Township's low and moderate income housing obligation after all other credits have been established.

21. The Bobcar intervenors have been aware of the Township's desire to acquire property for this purpose for several months, as it was raised and discussed in our meetings with them.

22. In fact, the Bobcar intervenors have been told that they will be the Township's first choice to develop the site after it has been acquired.

23. With regard to the settlement with Poekel Properties, LLC, the Mayor and Council authorized me to sign the Settlement Agreement by Resolution 2018-135, dated October 1, 2018, attached as Exhibit D.

24. I was also authorized to sign the Settlement Agreement with Spectrum 360, LLC by way of Resolution 2018-136, dated October 1, 2018, attached as Exhibit E.

25. Throughout this process, the Township has been mindful of its obligation to provide low and moderate income housing but has done so in a thoughtful manner, so that the final resolution is beneficial to all of the residents and visitors of Verona.

23. With regard to the settlement with Poekel Properties, LLC, the Mayor and Council authorized me to sign the Settlement Agreement by Resolution 2018-135, dated October 1, 2018, attached as Exhibit D.

24. I was also authorized to sign the Settlement Agreement with Spectrum 360, LLC by way of Resolution 2018-136, dated October 1, 2018, attached as Exhibit E.

25. Throughout this process, the Township has been mindful of its obligation to provide low and moderate income housing but has done so in a thoughtful manner, so that the final resolution is beneficial to all of the residents and visitors of Verona.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


MATTHEW CAVALLO

Dated: November 26, 2018

EXHIBIT A

GIBLIN & GANNAIO ESQS.
Two Forest Avenue
Oradell, New Jersey 07649
(201) 262-9500
Attorneys for Plaintiff/Petitioner
Attorney I.D. 027001990

IN THE MATTER OF THE TOWNSHIP
OF VERONA, a municipal corporation
of the State of New Jersey

Plaintiff/Petitioner.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY**

Docket No. L-4773-15

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(Mount Laurel)

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I, Matthew Cavallo, of full age do hereby certify as follows:

1. I am the Township Manager for the Township of Verona and, under its form of government, I am responsible for the day to day operation of the Township.
2. I have been the Township Manager since December 1, 2015 and am fully familiar with all of the facts set forth herein.
3. I have personally attended all but two of the negotiation sessions between the Township and the various intervenors and have personally been in attendance several times this matter has been heard by the Honorable Robert H. Gardner, J.S.C.
4. Since the Court's denial of this intervenor's prior motion a few months ago requesting the identical relief, the Township has made significant strides in achieving compliance.
5. On September 17, 2018, the Township introduced an Ordinance creating a mandatory set-aside for affordable housing within the Township of Verona. That Ordinance, which was adopted on October 15, 2018, is attached hereto as Exhibit A.

6. Pursuant to the terms of that Ordinance, any residential development of greater than five (5) units would be subject to a mandatory set-aside for low and moderate income housing.

7. The Township also became aware, several months ago, that a property owner known as Cameco, desired to cease operation of its commercial establishment in the Township and desired to sell the property to the Township.

8. The Cameco property, which contains approximately 2.2 acres, has substantial frontage on Bloomfield Avenue, although it has an address of Pine Street.

9. The Cameco site is also adjacent to a vacant parcel of property that the Township already owns and the sites, when combined, will contain approximately 2.5 acres.

10. The consolidated site will also be adjacent to the Poekel property, which is owned by Poekel Properties, an intervenor in the instant matter, and which the Township has already negotiated a settlement with, which will create ten (10) affordable units as part of its development of the site with forty nine (49) rental as well as 6,395 square feet of commercial space on the ground floor.

11. On November 10, 2018, the Mayor and Council of the Township of Verona held a special meeting and adopted on introduction Ordinance #2018-34, attached as Exhibit B.

12. That Ordinance permits the Township to bond \$2,952,000.00 in order pay for the cost of acquisition of the Cameco property and appropriates the total sum of \$3,100,000.00 to accomplish same. That Ordinance will be adopted after a public hearing on December 3, 2018.

13. Most recently, at a meeting held on November 19, 2018, the Mayor and Council of the Township of Verona passed Resolution #2018-150, attached as Exhibit C, which authorized me to execute the Purchase and Sale Agreement for the Cameco property subject only to any reasonable amendments recommended by the Township Attorney.

EXHIBIT B

SETTLEMENT AGREEMENT

THE SETTLEMENT AGREEMENT

TOWNSHIP OF ALRONA

...
Township

LOCAL PROPERTIES LLC

...
Party

AND WITNESSES:

WHEREAS ...
Committee

WHEREAS ...
Packed Intervention

WHEREAS ...
Essex County Declaratory Judgment Action

(d) **WHEREAS**, Poekel is the owner of the approximately 2.7-acre real property designated as Block 2301, Lots 17 & 18 according to the Township's tax and assessment maps and commonly known as 860 Bloomfield Avenue (the "**Property**"); and

(e) **WHEREAS**, the Township intends to prepare a housing element and fair share plan (the "**Affordable Housing Plan**"), which will be adopted by the Township of Verona Planning Board (the "**Planning Board**"), endorsed by the Township Council, and submitted to the Court for review and approval; and

(f) **WHEREAS**, the Affordable Housing Plan will include the Property as the site of an inclusionary development at a density of approximately 46 rental units, including a 20% set-aside for units to be affordable to very low, low and moderate income households, together with approximately 6,395 square feet of commercial space and other site improvements (collectively, the "**Inclusionary Development**"); and

(g) **WHEREAS**, the Planning Board is not a party to this Agreement but the Parties understand and anticipate that the Planning Board will abide by the terms of this Agreement as set forth below for the purpose of facilitating a resolution of the Poekel Intervention; and

(h) **WHEREAS**, the Township will seek the Court's approval of the Affordable Housing Plan in connection with the Compliance Action and, regardless of the Court's approval or disapproval of the Affordable Housing Plan and the ultimate disposition of the Compliance Action, the Parties intend to be bound by this Agreement, provided that this Agreement is approved by the Court; and

(i) **WHEREAS**, Poekel is amenable to fully and finally resolving the Poekel Intervention premised upon securing the right to construct the Inclusionary Development on the Property; and

(j) **WHEREAS**, to ensure that the Inclusionary Development generates affordable housing units that can be credited to the Township's "Third Round" affordable housing obligations, the affordable units within the Inclusionary Development shall be developed in accordance with the New Jersey Council on Affordable Housing ("**COAH**") prior round regulations, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("**UHAC**"), the terms of the Settlement Agreement with Fair Share Housing Center in In the Matter of the Township of Verona, Docket No. ESX-L-4773-15, and any and all other applicable law, and said Inclusionary Development shall be deed restricted as such for a period of at least thirty years and thereafter until the municipality takes action to release the restrictions; and

(k) **WHEREAS**, the Parties wish to enter into this Agreement, setting forth the terms, conditions, responsibilities and obligations of the Parties, and seek the Court's approval of this Agreement at a "Fairness Hearing" in accordance with the requirements of Morris County Fair Housing Council v. Boonton Township, 197 N.J. Super. 359, 364 (Law Div. 1984), *aff'd o.b.*, 209 N.J. Super. 108 (App. Div. 1986) and East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328 (App. Div. 1996), and that, in order to approve this Agreement, the Court must

find that it adequately protects the interests of lower-income persons for whom the affordable units proposed by this Agreement are to be built; and

(1) **WHEREAS**, if the Court approves this Agreement at the Fairness Hearing, the Parties anticipate that the Court will provide a period of time, which they approximate will be 120 days, for the Township to adopt an implementing ordinance (the "**Ordinance**") and/or the actions necessary for the effectuation of the Inclusionary Development as an "as-of-right" development.

NOW, THEREFORE, in consideration of the promises, the mutual obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, the Parties hereto, each binding itself, its successors and assigns, do hereby covenant and agree, each with the other, as follows:

ARTICLE I PURPOSE OF AGREEMENT

1.1 The Parties incorporate the foregoing recitals as if fully set forth at length herein and made a part hereof.

1.2 The purpose of this Agreement is to settle the Poekel Intervention and create a realistic opportunity for the construction of the Inclusionary Development, and to generate affordable housing credits for the Township to apply to any Third Round obligation assigned to it. The Inclusionary Development shall be substantially consistent with the concept plan, floor plans and elevations attached hereto and made a part hereof as **Exhibit A**.

ARTICLE II FAIRNESS HEARING

2.1 This Agreement is subject to Court approval following a duly noticed Fairness Hearing. To this end and as soon as practicable after the execution of this Agreement, the Parties shall jointly apply for Court approval of this Agreement via a properly-noticed Fairness Hearing. The Township shall be responsible for the preparation and cost of the notice of the Fairness Hearing except the Township shall not be responsible for any costs or expenses of Poekel. The Fairness Hearing shall be scheduled by the Court at any time after the execution of this Agreement in accordance with its normal calendaring process. If the Court fails to schedule the Fairness Hearing within 75 days from the execution of this Agreement, any of the Parties may cancel this Agreement and pursue the Poekel Intervention and the Compliance Action/Essex County Declaratory Judgment Action, as applicable, as if this Agreement were not executed.

2.2 In the event of any legal challenges to the Court's approval of this Agreement or the Affordable Housing Plan or the Ordinance, the Parties must diligently defend any such

challenge. In addition, if any such challenge results in a modification of this Agreement or the Affordable Housing Plan or the Ordinance, the Parties must negotiate in good faith with the intent to draft a mutually-acceptable amended agreement provided that no such modification will require the Township to accept a density for the Inclusionary Development other than as agreed herein and no such modification will require Poekel to accept a decrease in density for the Inclusionary Development other than as agreed herein.

ARTICLE III POEKEL'S OBLIGATIONS

3.1 Affordable Housing Set-Aside.

a. Poekel shall have an obligation to deed-restrict twenty (20%) percent of the residential units in the Inclusionary Development (equivalent to 10 units)* as very low, low or moderate income affordable units ("AHUs"), which AHUs shall not be age-restricted.

c. Any AHUs shall comply with UHAC and other applicable laws, except that a minimum of 13 percent of the affordable rental units shall be very low income units (affordable to households earning 30 percent or less of the regional median household income by household size), which very low income units shall be counted as part of the low income housing requirement. The AHUs shall remain as rental units for a period of at least thirty (30) years (the "**Deed-Restriction Period**") until the Township of Verona takes action to release the controls on affordability. This obligation to comply with UHAC includes, but is not limited to, the obligation to comply with the bedroom distribution requirements, very low/low/moderate income split requirements (subject to the modification of UHAC to reflect the very low income housing requirement set forth above), pricing requirements, affirmative marketing requirements, candidate qualification and screening requirements and deed restriction requirements.

d. The Township shall enter into a contract with a qualified "Administrative Agent" to administer the affordability controls on the AHUs developed in the Township. Poekel shall have the obligation to pay all costs associated with the services rendered by the Administrative Agent on behalf of the AHUs produced by the Poekel and with properly deed restricting the AHUs in accordance with UHAC and other applicable laws for a period of at least 30 years, until the Township of Verona takes action to release the controls on affordability.

e. Poekel shall at least once a year provide detailed information to the Township concerning Poekel's compliance with UHAC and other applicable laws.

3.2 Obligation Not to Oppose Township's Application for Approval of its Affordable Housing Plan: Poekel shall not directly or indirectly oppose or undertake any action to interfere with the Court's approval and/or implementation of the Township's Affordable Housing Plan, as it may be amended in any form, unless the Affordable Housing Plan deprives Poekel of any rights created hereunder or unless the Township undertakes any action to obstruct or impede Poekel from securing such approvals as it needs to develop the Inclusionary Development in accordance herewith.

3.3 Obligation to Withdraw as an Intervenor in the Township's Compliance Action. Upon the Court's approval of this Agreement at a duly noticed Fairness Hearing and no litigation or appeal filed from said approval of same and the Township's timely completion of the effectuation of the Ordinance adoption (as set forth in Section 4.1 below) and no litigation or appeal being filed relating to same, Poekel shall no longer continue to participate in the Compliance Action, except for the limited circumstances described in Section 3.2 of this Agreement, and shall formally be dismissed from the Compliance Action.

3.4 Obligation to Pay One-Half of the Special Master's Bills in Conjunction with Application for Approval of this Agreement. Poekel shall pay one-half of the costs and fees of the Court-appointed Special Master, Elizabeth C. McKenzie, P.P. (the "**Special Master**"), to review this Agreement and to advise the Court (a) if this settlement is fair and reasonable to lower income households and (b) if the Court should otherwise approve this Agreement.

ARTICLE IV OBLIGATIONS OF TOWNSHIP

4.1 Obligation to Effect Ordinance Adoption. Within one hundred twenty days (120) of the Effective Date, the Township shall effect the adoption of the Ordinance for the Inclusionary Development. The Ordinance shall create a new zoning district for the Property, which shall set forth the zoning standards necessary to obtain the development approvals for the Inclusionary Development, as same is further described in Exhibit A hereof, "as of right" and without the need for any variances, waivers or exceptions. In addition to the above requirements, the Ordinance shall be reasonably satisfactory to both the Township and Poekel. In connection with the above actions, the Township shall comply with all applicable procedural requirements set forth in applicable law, including, but not limited to, legal notice requirements. All of the time periods set forth in this Section 4.1 may be subject to an extension of time, which shall be reasonably agreed upon by the Parties, if at no fault of either Party the required actions cannot be completed within the time periods established.

4.2 Obligation to Pay One-Half of the Special Master's Bills in Conjunction with Application for Approval of this Agreement. The Township shall pay one-half of the costs and fees of the Special Master to review this Agreement and to advise the Court (a) if this settlement is fair and reasonable to lower income households and (b) if the Court should otherwise approve this Agreement.

4.3 Obligation to Preserve the Inclusionary Development. The provisions of the Affordable Housing Plan may be amended or rescinded at any time without the approval of the Poekel provided, however, the Township shall not undertake any action to obstruct or impede Poekel from securing such approvals as it needs to develop the Inclusionary Development in accordance herewith until the later of: (i) July 1, 2025 or (ii) any date which may be otherwise applicable under the Mount Laurel Doctrine. In addition, the Township shall keep the Ordinance in place until at least July 1, 2025, with such Ordinance not to be amended thereafter without the consent of the Parties and the permission of the Court.

4.4 Representation regarding Sufficiency of Water and Sewer: The Township represents that there is no sanitary sewer or water moratorium in place and that there is sufficient sanitary sewer and water capacity to service the Inclusionary Development.

4.5 Obligation to Cooperate: Poekel acknowledges and agrees that in order for Poekel to construct its Inclusionary Development, Poekel is required to obtain any and all necessary and applicable agreements, approvals, and permits from all relevant public entities and utilities; such as, by way of example only, the Township, the Planning Board, the County of Essex, the County of Essex Planning Board, the North Jersey Water District Commission, the New Jersey Department of Environmental Protection, the New Jersey Department of Transportation, and the like, including the Township's ordinance requirements as to site plan and subdivision (the "**Required Approvals**"). The Township agrees to use all reasonable efforts to cooperate with and assist the Poekel in its undertakings to obtain the Required Approvals, including, but not limited to, reasonable efforts to obtain the necessary approvals from Essex County to fill, pave and landscape the parcel owned by Essex County that is designated as Block 2301, Lot 19 according to the Township's tax and assessment maps, and that is located between the Property and the Linn Drive right-of-way (the "**County Parcel**").

4.6 Obligation to Refrain From Imposing Cost-Generative Requirements. The Township recognizes that this Agreement contemplates the development of an "inclusionary development" within the meaning of the Mount Laurel Doctrine, and Poekel shall be entitled to any benefits, protections, and obligations afforded to developers of inclusionary developments. Therefore, the Township shall comply with N.J.A.C. 5:93-10 and will not impose development standards and/or requirements that would be considered to be "cost generative" other than those costs set forth herein or imposed or required by the Planning Board to the extent allowed by law.

ARTICLE V OBLIGATIONS OF THE PLANNING BOARD

5.1 Obligation to Process Poekel's Development Application(s) with Reasonable Diligence. The Planning Board shall expedite the processing of Poekel's development application(s) following the Court's approval of this Agreement following a duly noticed Fairness Hearing in accordance with N.J.A.C. 5:93-10.1(a) and within the time limits imposed by New Jersey's Municipal Land Use Law (the "**MLUL**") unless otherwise agreed to by the Parties. Provided that the Planning Board has declared Poekel's development application(s) complete, and upon Poekel's written request for same, the Planning Board shall schedule a special hearing(s) on Poekel's development application(s) by _____. In accordance with N.J.A.C. 5:93-10(b), the Planning Board shall cooperate in granting all reasonable waivers and/or variances that are necessary to develop the Inclusionary Development as contemplated by this Agreement. In the event of any appeal of the Affordable Housing Plan or the Court's approval of this Agreement, the Planning Board shall process and take action on any development application by the Poekel for the Inclusionary Development which decision may be conditioned upon the outcome of any pending appeal.

5.2 Obligation to Refrain From Imposing Cost-Generative Requirements. The Planning Board recognizes that this Agreement contemplates the development of an "inclusionary development" within the meaning of the Mount Laurel Doctrine, and Poekel shall be entitled to any benefits, protections, and obligations afforded to developers of inclusionary

developments. Therefore, subject to and in accordance with **Section 3.1** and **Section 5.1**, if Poekel applies to the Planning Board for approval of the Inclusionary Development consistent with the Affordable Housing Plan, the Planning Board shall comply with N.J.A.C. 5:93-10 and will not impose development standards and/or requirements that would be objectively considered to be "cost generative" except those costs set forth herein and those imposed or required by the Planning Board to the extent allowed by law. Nothing shall prevent Poekel from applying for a waiver or variance from any standard imposed by the Township's Land Use and Development Ordinance. The standards set forth in the MLUL shall determine if Poekel is entitled to this relief or from seeking a waiver or *de minimus* exception to any standard or requirement of the Residential Site Improvement Standards under the applicable regulations.

ARTICLE VI

MUTUAL OBLIGATIONS

6.1 Obligation to Comply with Law. The Parties shall comply with any and all Federal, State, County and local laws, rules, regulations, statutes, ordinances, permits, resolutions, judgments, orders, decrees, directives, interpretations, standards, licenses, approvals, and similarly binding authority, applicable to the Inclusionary Development or the performance by the Parties of their respective obligations or the exercise by the Parties of their respective rights in connection with this Agreement.

6.2 Mutual Good Faith, Cooperation and Assistance. The Parties shall exercise good faith, cooperate, and assist each other in fulfilling the intent and purpose of this Agreement, including, but not limited to, the approval of this Agreement by the Court, the adoption of the Affordable Housing Plan, the development of the Inclusionary Development consistent with the terms hereof, and the defense of any challenge with regard to any of the foregoing.

6.3 Defense of Agreement. Each party exclusively shall be responsible for all costs which they may incur in obtaining the Court's approval of this Agreement and any appeal therefrom, or from the adoption of the Affordable Housing Plan or the Ordinance, or any part thereof. The Parties shall diligently defend any such challenge.

ARTICLE VII AFFORDABLE HOUSING CREDITS

7.1 Application of Affordable Housing Credits: The Parties agree that the Township, subject to approval by the Court, shall be permitted to apply the AHUs contemplated by this Agreement towards its obligations as required by the Mount Laurel Doctrine. The Parties acknowledge that the Township intends to seek credits for up to ten (10) affordable housing units.

7.2 Upon written notice, Poekel agrees to supply the Township all documents within its possession that may be reasonably necessary to demonstrate the creditworthiness of the affordable units.

ARTICLE VIII

COOPERATION AND COMPLIANCE

8.1 Implementation And Enforcement of Agreement: The Parties agree to cooperate with each other, provide all reasonable and necessary documentation, and take all necessary actions to satisfy the terms and conditions hereof and assure compliance with the terms of this Agreement, subject to prior written agreement between the Parties on payment by the requesting party of the requested party's direct costs and expenses in connection with such assistance. The Township's obligation to cooperate shall be further conditioned upon Poekel paying and maintaining current real estate taxes.

ARTICLE IX NOTICES

9.1 Notices: Any notice or transmittal of any document required, permitted or appropriate hereunder and/or any transmittal between the Parties relating to the Inclusionary Development (herein "Notice(s)") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or recognized overnight or personal carrier such as, for example, Federal Express, with certified proof of receipt in each case, and, where feasible (for example, any transmittal of less than fifty (50) pages), and in addition thereto, an email delivery shall be provided. All Notices shall be deemed received upon the date of delivery set forth in such certified proof, and all times for performance based upon notice shall be from the date set forth therein. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

(A) If to Poekel:

POEKEL PROPERTIES LLC
860 Bloomfield Avenue
Verona, New Jersey 07044
Attn: Charles A. Poekel, Jr., Esq.
Telephone: 718-729-7400
Facsimile: 973-239-6374
Email: poekel@aol.com

with a copy to:

Bisgaier Hoff, LLC
Attention: Peter M. Flannery, Esq.
25 Chestnut St., Suite 3
Haddonfield, New Jersey 08033
Telephone (Main) : (856) 795-0150
Facsimile: (856) 795-0312
e-mail: pflannery@bisgaierhoff.com

If to the Township:

TOWNSHIP OF VERONA
Verona Town Hall, 600 Bloomfield Avenue, Verona, New Jersey 07044

NOTICE

ATTENTION TO THE READER

Portable Document Format (PDF Adobe Acrobat) or other means of electronic transmission shall be supplemented by the delivery of an original counterpart upon request of any Party pursuant to the terms for notice set forth herein.

10.6 Voluntary Agreement: The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

10.7 Interpretation: Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties, and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (a) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (b) it has conferred due authority for execution of this Agreement upon the person(s) executing it.

10.8 Schedules: Any and all exhibits and schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all exhibits and schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.

10.9 Entire Agreement: This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof except as otherwise provided herein.

10.10 Conflict Of Interest: No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

10.11 Effective Date: Anything herein contained to the contrary notwithstanding, the effective date ("Effective Date") of this Agreement shall be the date upon which both of the Parties hereto have executed and delivered this Agreement.

10.12 Waiver. Each of the Parties waives all rights to challenge the validity or the ability to enforce this Agreement. Failure to enforce any of the provisions of this Agreement by any of the Parties shall not be construed as a waiver of these or other provisions.

10.13 Captions. The captions and titles to this Agreement and the several sections and subsections are inserted for purposes of convenience of reference only and are in no way to be construed as limiting or modifying the scope and intent of the various provisions of this Agreement.

10.14 Default. In the event that any of the Parties shall fail to perform any material obligation on its part to be performed pursuant to the terms and conditions of this Agreement, unless such obligation is waived by all of the other Parties for whose benefit such obligation is intended, or by the Court, such failure to perform shall constitute a default of this Agreement.

Upon the occurrence of any default, the non-defaulting Party shall provide notice of the default and the defaulting Party shall have a reasonable opportunity to cure the default within forty-five (45) days. In the event the defaulting Party fails to cure within forty-five (45) days or such reasonable period of time as may be appropriate, the Party(ies) for whose benefit such obligation is intended shall be entitled to exercise any and all rights and remedies that may be available in equity or under the laws of the State of New Jersey, including the right of specific performance to the extent available. Further, the Parties may apply to the Court for relief, by way of a motion for enforcement of litigant's rights.

10.15 Notice of Actions. The Parties and their respective counsel agree immediately to provide each other with notice of any lawsuits, actions or governmental declarations threatened or pending by third parties of which they are actually aware which may affect the provisions of this Agreement.

10.16 Construction, Resolution of Disputes. This Agreement has been entered into and shall be construed, governed and enforced in accordance with the laws of the State of New Jersey without giving effect to provisions relating to the conflicts of law. Jurisdiction of any litigation ensuing with regard to this Agreement exclusively shall be in the Superior Court of New Jersey, with venue in Essex County. Service of any complaint may be effected consistent with the terms hereof for the delivery of "Notices," hereinafter defined. The Parties waive formal service of process.

THE REMAINDER OF THIS PAGE IS PURPOSEFULLY BLANK

REFERENCES

PROFESSOR OF THE HISTORY OF THE UNITED STATES

WITNESS/ATTEST:

TOWNSHIP OF VERONA

Jennifer Kiernan, R.M.C., Clerk

By:

Matthew Cavallo, M.P.A., C.P.M.,
Township Manager

WITNESS/ATTEST:

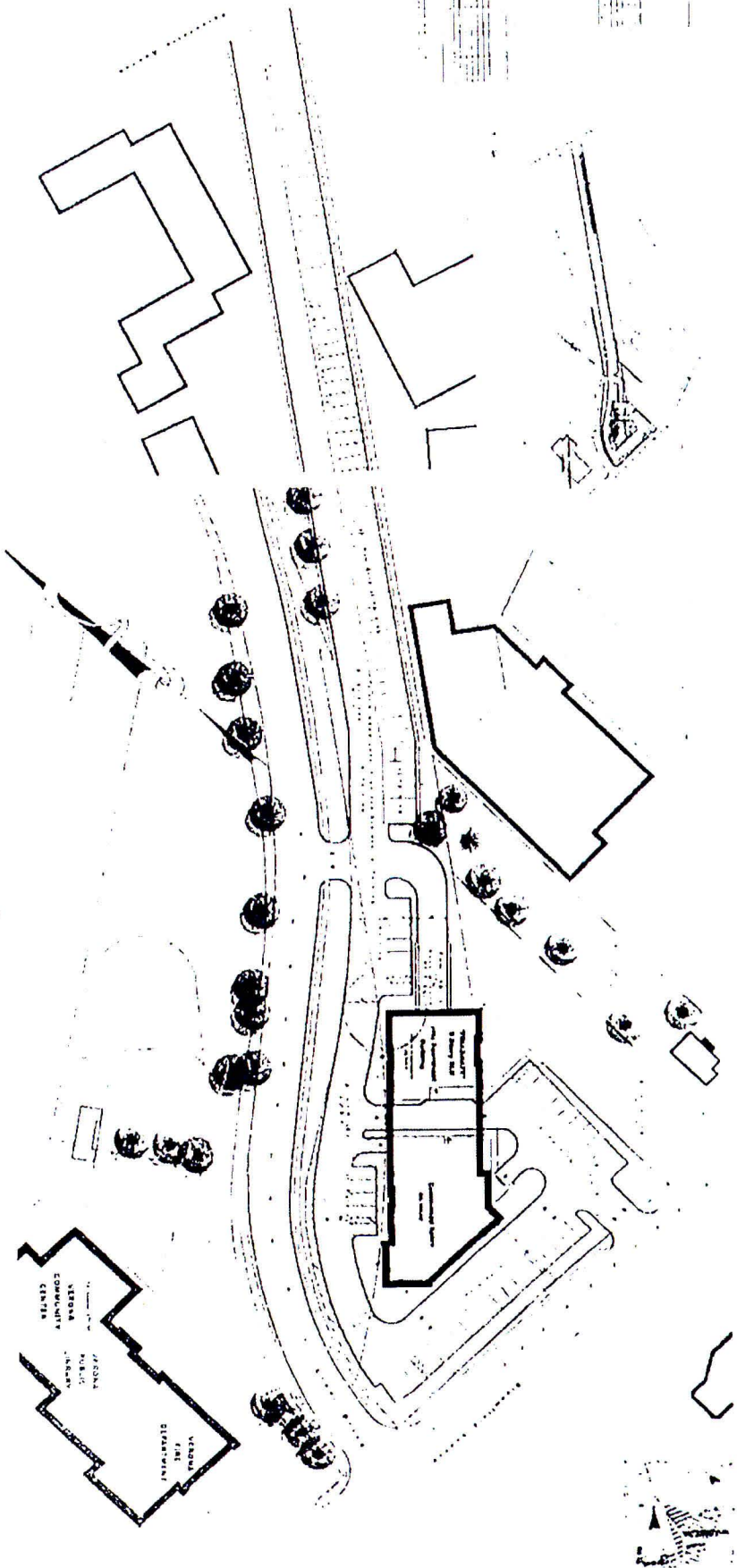
POEKEL PROPERTIES LLC

By:

Charles A. Poekel, Jr.

EXHIBIT A
Concept Plan, Floor Plans and Elevations for Inclusionary Development

FellsGate - Multifamily and Retail 850 Bloomfield Ave., Verona NJ



Prepared by: [illegible]

Site Plan

8.5.2019 (Final)

EXHIBIT C

PREPARED BY:
Jennifer A. Lifschitz
Attorney at Law
State of New Jersey
201-488-8200

D E E D

This Deed is made on March ____, 2019

BETWEEN Verona Warehousing Company, a New Jersey Corporation, whose post office address is 100 Pine Street, Verona, New Jersey 07044, referred to as "Grantor".

AND the Township of Verona, whose address is Verona Town Hall, 600 Bloomfield Avenue, Verona, New Jersey 07044, referred to as "Grantee".

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of Two Million Two Hundred Eighty Thousand Dollars and 00/100 (\$2,280,000.00). The Grantor acknowledges receipt of this money.

Tax Map Reference. (N.J.S.A. 46:15-2.1) Municipality of Verona, Block 2301, Lots 11 and 14.

Property. The property consists of the land and all the buildings and structures on the land in the Township of Verona, County of Essex, State of New Jersey. The legal description is:

LEGAL DESCRIPTION

**SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"
AND MADE A PART HEREOF**

COMMONLY known as 86 Pine Street and 100 Pine Street, Verona, NJ 07044.

BEING THE SAME premises conveyed to Verona Warehousing Company, by Deed from Seymour Silberberg and Annice Silberberg, his wife, dated February 1, 1978 and recorded on February 17, 1978 in the Essex County Register's Office in Book 4598, Page 664.

BEING THE SAME premises conveyed to Verona Warehousing Company, by Deed from R & J Realty Company, L.L.C. dated November 24, 1999 and recorded on November 12, 2003 in the Essex County Register's Office in Book 6012, Page 832.

SUBJECT to restrictions and easements of record, if any, municipal zoning ordinances and such state of facts as an accurate survey and inspection of the premises may disclose.

Promises by Grantor. The Grantor promises that Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. The Grantor signs this deed as of the date at the top of the first page.

WITNESSED BY:

[Signature]

VERONA WAREHOUSING COMPANY

[Signature]
RICHARD PERL, President

[Signature]
JERRY PERL, Vice President,
Treasurer and Secretary

STATE OF NJ)
COUNTY OF ESSEX) SS.:

I CERTIFY that on March 11, 2019, Richard Perl and Jerry Perl personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of the attached Deed;
- (b) was authorized to and did execute this Deed as the President or Vice President, Treasurer, and Secretary of the entity named in this Deed;
- (c) made this Deed for \$2,280,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5); and
- (d) executed this Deed as the act of the entity.

[Signature]
AN ATTORNEY OF N.J.
(AS TO RICHARD PERL)

RECORD AND RETURN TO:

Joseph P. Baumann, Jr., Esq.
c/o McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, NJ 07068

Signatures. The Grantor signs this deed as of the date at the top of the first page.

WITNESSED BY:

VERONA WAREHOUSING COMPANY

Jennifer A. Lifschitz

RICHARD PERL, President

JERRY PERL, Vice President,
Treasurer and Secretary

STATE OF NJ)

SS.:

COUNTY OF Bergen)

I CERTIFY that on March 11, 2019, Richard Perl and Jerry Perl personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of the attached Deed;
- (b) was authorized to and did execute this Deed as the President or Vice President, Treasurer, and Secretary of the entity named in this Deed;
- (c) made this Deed for \$2,280,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5); and
- (d) executed this Deed as the act of the entity.

Jennifer A. Lifschitz
Jennifer A Lifschitz
Attorney at Law
State of New Jersey

RECORD AND RETURN TO:

Joseph P. Baumann, Jr., Esq.
c/o McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, NJ 07068

EXHIBIT "A"

LEGAL DESCRIPTION

BLOCK 2301, LOT 11:

FIRST TRACT:

BEGINNING at a point in the northerly line of Pine Street (formerly known as North Claremont Avenue) where the same is intersected by the easterly line of lands now or formerly of Albert William Decker, said point being also distant as measured along said line Pine Street one hundred and thirty feet and ninety-seven hundredths of a foot westerly from the intersection of said line with the northwesterly line of Depot Street; and running thence (1) Along land of said Decker North twelve degrees twenty-seven minutes East two hundred and three feet and twenty-one hundredths of a foot; thence (2) South sixty degrees fifty-four minutes East seventy feet; thence (3) South eighteen degrees forty-seven minutes West one hundred and seventy feet and eighty-four hundredths of a foot to the aforesaid northerly line of Pine Street; thence (4) Along the same South eighty-six degrees fifty-seven minutes West fifty feet to the point or place of BEGINNING.

SECOND TRACT:

BEGINNING at a point in the Northerly line of Pine Street (formerly Claremont Avenue) at its intersection with the Westerly line of land now or formerly of A. W. Decker, and running thence (1) Along said Northerly line of Pine Street South 83 degrees 41 minutes West 52.81 feet to the line of lands now or formerly of L.A. Pier; thence (2) North 12 degrees 27 minutes East 300 feet to lands of adjoining owner; thence (3) Along the last mentioned line North 83 degrees 41 minutes East 52.81 feet to lands of the adjoining owner; thence (4) Along said last mentioned land South 12 degrees 27 minutes West 300 feet to the said Northerly line of Pine Street and the point and place of BEGINNING.

BLOCK 2301, LOT 14:

BEGINNING in the center line of Pine Street formerly Claremont Avenue (a Street having no established width) at a point in line with the westerly line of lanes of Edwin R. Cory, et ux, as conveyed to them by Deed Book Z-62, page 86, said point also being according to survey hereinafter recited 259.12 feet as

measured westerly along the said center line of Pine Street from the center line of Depot Street; thence running along said center line of Pine Street South 85 degrees 55 minutes West 108.88 feet; thence North 12 degrees 1 minute East along the line of lands now or formerly of Otto E. Rudolph, et ux, 332.40 feet to a point in the southerly line of the right of way of the Caldwell Branch-Greenwood Lake Division of the Erie Railroad; thence along said right of way North 48 degrees 38 minutes East 221.74 feet to a point in the westerly line of a private road formerly existing and known as Nelson Place; thence along the said westerly line of said Nelson Place South 1 degree 5 minute West 132.18 feet to an angle therein; thence still the same South 12 degrees 27 minutes West 12.65 feet to a point therein, said point being in the northeasterly corner of lands conveyed to Edwin R. Cory as aforesaid; thence along the westerly line of said lands South 12 degrees 27 minutes West 321.14 feet to the aforesaid center line of Pine Street and the point or place of BEGINNING.

PREPARED BY:
Jennifer A. Lifschitz
Attorney at Law
State of New Jersey
201-488-8200

D E E D

This Deed is made on March ____, 2019

BETWEEN R & J Realty Company, L.L.C., a New Jersey limited liability corporation, whose post office address is 100 Pine Street, Verona, New Jersey, referred to as "Grantor".

AND the Township of Verona, whose address is Verona Town Hall, 600 Bloomfield Avenue, Verona, New Jersey, referred to as "Grantee".

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of Five Hundred Seventy Thousand and 00/100 Dollars (\$570,000.00). The Grantor acknowledges receipt of this money.

Tax Map Reference. (N.J.S.A. 46:15-2.1) Municipality of Verona, Block 2301, Lots 12 and 15.

Property. The property consists of the land and all the buildings and structures on the land in the Township of Verona, County of Essex, State of New Jersey. The legal description is:

LEGAL DESCRIPTION

**SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"
AND MADE A PART HEREOF**

COMMONLY known as 90 Pine Street and 110 Pine Street, Verona, NJ 07044.

BEING THE SAME premises conveyed to R & J Realty, a New Jersey partnership, by Deed from Lenora Dodd, widow, dated September 29, 1989 and recorded on October 11, 1989 in the Essex County Register's Office in Book 5097, Page 938.

BEING THE SAME premises conveyed to R & J Realty Company, L.L.C., by Deed from R & J Realty Company, a New Jersey partnership, dated August 18, 1997 and recorded on October 31, 1997 in the Essex County Register's Office in Book 5502, Page 662.

BEING THE SAME premises conveyed to R and J Realty Co., by Deed from Wilhelmina Tempesta, widow, dated April 7, 1999 and recorded on April 23, 1999 in the Essex County Register's Office in Book 5610, Page 0941.

SUBJECT to restrictions and easements of record, if any, municipal zoning ordinances and such state of facts as an accurate survey and inspection of the premises may disclose.

Promises by Grantor. The Grantor promises that Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

WITNESSED BY:

Richard Perl
RICHARD PERL, Member

STATE OF AL)

COUNTY OF ESSEX)

(a) was the maker of the attached Deed;

(b) was authorized to and did execute this Deed as all of the members of the entity named in this Deed;

(c) made this Deed for \$570,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5); and

(d) executed this Deed as the act of the entity.

AN ATTORNEY OF
N.J.
(As to ALBERT PERL)

Signatures. The Grantor signs this deed as of the date at the top of the first page.

WITNESSED BY:

R & J REALTY COMPANY, L.L.C.

Jennifer Lifschitz

RICHARD PERL, Member

JERRY PERL, Member

STATE OF NT)

SS.:

COUNTY OF Bergen)

I CERTIFY that on March 11, 2019, Richard Perl and Jerry Perl, personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of the attached Deed;
- (b) was authorized to and did execute this Deed as all of the members of the entity named in this Deed;
- (c) made this Deed for \$570,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5); and
- (d) executed this Deed as the act of the entity.

Jennifer A. Lifschitz
Jennifer A. Lifschitz
Attorney at Law
State of New Jersey

RECORD AND RETURN TO:

Joseph P. Baumann, Jr., Esq.
c/o McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, NJ 07068