

**BOROUGH OF BELMAR**

**RESOLUTION NO. 2024-156**

**RESOLUTION AUTHORIZING THE APPROVAL, EXECUTION AND SUBMISSION TO THE COURT OF THE PROPOSED SETTLEMENT AGREEMENT WITH MARK BUILT PROPERTIES, LLC, IN FURTHERANCE OF COMPLIANCE WITH THE BOROUGH OF BELMAR'S AFFORDABLE HOUSING OBLIGATIONS IN THE BOROUGH'S PENDING DECLARATORY JUDGMENT ACTION**

**WHEREAS**, on March 2, 2023, the Borough of Belmar, in the County of Monmouth, New Jersey (the "Borough") filed a declaratory judgment action with the Superior Court, Law Division, Monmouth County, New Jersey, entitled In the Matter of the Application of the Borough of Belmar, a municipal corporation of the State of New Jersey, Docket No. MON-L-655-23 (the "DJ Action"), seeking a Judgment of Compliance and Repose from the Court approving its Housing Element and Fair Share Plan ("Fair Share Plan"), in addition to related relief in accordance with the New Jersey Supreme Court decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015); and

**WHEREAS**, the DJ Action seeks a declaratory judgment from the Court for the Third Round regarding the Borough's affordable housing obligations for the period 1999-July 1, 2025, and is presently pending before the Honorable Linda Grasso Jones; and

**WHEREAS**, subsequent to the filing of the DJ Action, several developers sought to intervene in the DJ Action and proposed various projects to the Borough for potential inclusion in the Borough's Fair Share Plan; and

**WHEREAS**, Mark Built Properties, LLC ("Mark Built"), is the affiliate of the contract purchaser of property identified on the Borough's tax maps as Block 56, Lots 1, 2, 4 and 6 (the "Main Street Property"), and Block 57, Lot 4 (the "River Road Property"; together with the Main Street Property, the "Mark Built Property") located in the area designated as the Seaport Redevelopment Area; and

**WHEREAS**, by Order dated August 30, 2023, Mark Built was granted leave to intervene in the DJ Action as an intervenor; and

**WHEREAS**, following extensive negotiations, Mark Built proposed the development of the Mark Built Property with two (2) buildings, one of which is located on the Main Street Property (the "East Building") and the other located on the River Road Property (the "West Building"), with a total of 139 residential units, including 115 for-sale, market rate units and an affordable housing set aside of 24 rental units; 6,000 sf of retail and commercial space in the East Building; and a minimum of 210 parking spaces and Redeveloper shall make reasonable and good faith effort to provide additional parking spaces, all as shown in the concept plan dated April 24, 2024 (the "Mark Built Project"), subject to Mark Built and the Borough entering into a Redevelopment Agreement; and

**WHEREAS**, a proposed form of Settlement Agreement has been prepared with respect to the Mark Built Project, as set forth in **Exhibit A**, (the “Mark Built Settlement Agreement”) setting forth the terms, conditions, responsibilities and obligations of Mark Built and the Borough with respect to the Mark Built Project, and in furtherance of compliance with the Borough’s affordable housing obligations in the pending DJ Action; and

**WHEREAS**, the Borough finds that it is in the best interest of the Borough to seek approval from the Court of the proposed Mark Built Settlement Agreement in an effort to meet its constitutional obligations for the Third Round in the pending DJ Action; and

**WHEREAS**, Judge Grasso Jones has scheduled a Fairness Hearing in the DJ Action for September 24, 2024 with respect to the Mark Built Settlement Agreement (the “Fairness Hearing”).

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Belmar, in the County of Monmouth and State of New Jersey, that the Mayor and Borough Attorney and/or Borough Special Redevelopment/Affordable Housing Counsel are hereby authorized to proceed at the Fairness Hearing to seek the approval of the Mark Built Settlement Agreement, in substantially the form appended hereto as **Exhibit A**.

**BE IT FURTHER RESOLVED** that, once approved by the Court, the Mayor is hereby is further authorized to execute the Mark Built Settlement Agreement, with such changes, omissions or amendments as may be required by the Court, and such other documents or agreements as may be necessary to effectuate the Mark Built Settlement Agreement and as appropriate, the dismissal of all applicable pending litigation, which documents shall be in a form approved by the Borough Attorney and/or Borough Special Redevelopment/Affordable Housing Counsel.

**BE IT FURTHER RESOLVED** that the Municipal Clerk is hereby authorized and directed, upon execution by the Mayor of the Mark Built Settlement Agreement and such other documents or agreements as are necessary to effectuate the Mark Built Settlement Agreement and as appropriate, the dismissal of all applicable pending litigation, to attest to the signature of the Mayor upon such documents.

**EXHIBIT A**  
**MARK BUILT SETTLEMENT AGREEMENT**

**BOROUGH OF BELMAR**

**RESOLUTION 2024-157**

**RESOLUTION AUTHORIZING THE APPROVAL, EXECUTION AND SUBMISSION TO THE COURT OF THE PROPOSED SETTLEMENT AGREEMENT WITH 613 TENTH AVENUE, LLC, IN FURTHERANCE OF COMPLIANCE WITH THE BOROUGH OF BELMAR'S AFFORDABLE HOUSING OBLIGATIONS IN THE BOROUGH'S PENDING DECLARATORY JUDGMENT ACTION**

**WHEREAS**, on March 2, 2023, the Borough of Belmar, in the County of Monmouth, New Jersey (the "Borough") filed a declaratory judgment action with the Superior Court, Law Division, Monmouth County, New Jersey, entitled In the Matter of the Application of the Borough of Belmar, a municipal corporation of the State of New Jersey, Docket No. MON-L-655-23 (the "DJ Action"), seeking a Judgment of Compliance and Repose from the Court approving its Housing Element and Fair Share Plan ("Fair Share Plan"), in addition to related relief in accordance with the New Jersey Supreme Court decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015); and

**WHEREAS**, the DJ Action seeks a declaratory judgment from the Court for the Third Round regarding the Borough's affordable housing obligations for the period 1999-July 1, 2025, and is presently pending before the Honorable Linda Grasso Jones; and

**WHEREAS**, subsequent to the filing of the DJ Action, several developers sought to intervene in the DJ Action and proposed various projects to the Borough for potential inclusion in the Borough's Fair Share Plan; and

**WHEREAS**, 613 Tenth Avenue, LLC ("613"), is the owner of property identified on the Borough's tax maps as Block 105, Lot 8, commonly known as 613 Tenth Avenue (the "613 Property"); and

**WHEREAS**, by Order dated January 23, 2024, 613 was granted leave to intervene in the DJ Action as an intervenor; and

**WHEREAS**, following extensive negotiations, 613 proposed the development of the 613 Property with a four (4) story building with 12 residential units, including a 20% set aside for affordable housing units, which shall be allocated as 10 market rate units and an affordable housing set aside of 2 units with a payment in lieu of the remaining fraction of an affordable unit, 0.4 affordable housing units, in the amount of \$60,890.80 as permitted by N.J.A.C. 5:93-8.10(c), with 23 parking spaces not including credits for electric vehicle parking spaces, as shown in the concept plan dated March 13, 2024 (the "613 Project") subject to 613 and the Borough entering into a Developer's Agreement; and

**WHEREAS**, a proposed form of Settlement Agreement has been prepared with respect to the 613 Project, as set forth in Exhibit A, (the "613 Settlement Agreement") setting forth the terms, conditions, responsibilities and obligations of the 613 and the Borough with respect to the 613

Project, and in furtherance of compliance with the Borough's affordable housing obligations in the pending DJ Action; and

**WHEREAS**, the Borough finds that it is in the best interest of the Borough to seek approval from the Court of the proposed 613 Settlement Agreement in an effort to meet its constitutional obligations for the Third Round in the pending DJ Action; and

**WHEREAS**, Judge Grasso Jones has scheduled a Fairness Hearing in the DJ Action for September 24, 2024 with respect to the 613 Settlement Agreement (the "Fairness Hearing").

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Belmar, in the County of Monmouth and State of New Jersey, that the Mayor and Borough Attorney and/or Borough Special Redevelopment/Affordable Housing Counsel are hereby authorized to proceed at the Fairness Hearing to seek the approval of the 613 Settlement Agreement, in substantially the form appended hereto as **Exhibit A**.

**BE IT FURTHER RESOLVED** that, once approved by the Court, the Mayor is hereby is further authorized to execute the 613 Settlement Agreement, with such changes, omissions or amendments as may be required by the Court, and such other documents or agreements as may be necessary to effectuate the 613 Settlement Agreement and as appropriate, the dismissal of all applicable pending litigation, which documents shall be in a form approved by the Borough Attorney and/or Borough Special Redevelopment/Affordable Housing Counsel.

**BE IT FURTHER RESOLVED** that the Municipal Clerk is hereby authorized and directed, upon execution by the Mayor of the 613 Settlement Agreement and such other documents or agreements as are necessary to effectuate the 613 Settlement Agreement and as appropriate, the dismissal of all applicable pending litigation, to attest to the signature of the Mayor upon such documents.

**EXHIBIT A**  
**613 SETTLEMENT AGREEMENT**

**BOROUGH OF BELMAR**

**RESOLUTION 2024-158**

**RESOLUTION AUTHORIZING THE APPROVAL, EXECUTION AND SUBMISSION TO THE COURT OF THE PROPOSED SETTLEMENT AGREEMENT WITH 75 RAINEY, LLC IN FURTHERANCE OF COMPLIANCE WITH THE BOROUGH OF BELMAR'S AFFORDABLE HOUSING OBLIGATIONS IN THE BOROUGH'S PENDING DECLARATORY JUDGMENT ACTION**

**WHEREAS**, on March 2, 2023, the Borough of Belmar, in the County of Monmouth, New Jersey (the "Borough") filed a declaratory judgment action with the Superior Court, Law Division, Monmouth County, New Jersey, entitled In the Matter of the Application of the Borough of Belmar, a municipal corporation of the State of New Jersey, Docket No. MON-L-655-23 (the "DJ Action"), seeking a Judgment of Compliance and Repose from the Court approving its Housing Element and Fair Share Plan ("Fair Share Plan"), in addition to related relief in accordance with the New Jersey Supreme Court decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015); and

**WHEREAS**, the DJ Action seeks a declaratory judgment from the Court for the Third Round regarding the Borough's affordable housing obligations for the period 1999-July 1, 2025, and is presently pending before the Honorable Linda Grasso Jones; and

**WHEREAS**, subsequent to the filing of the DJ Action, several developers sought to intervene in the DJ Action and proposed various projects to the Borough for potential inclusion in the Borough's Fair Share Plan; and

**WHEREAS**, 75 Rainey, LLC ("Sackman"), is the owner of property identified on the Borough's tax maps as Block 75, Lots 4, 5 and 6 (the "Sackman Property") located in the area designated as the Seaport Redevelopment Area; and

**WHEREAS**, by Order dated August 28, 2023, Sackman was granted leave to intervene in the DJ Action as an intervenor; and

**WHEREAS**, following extensive negotiations, Sackman proposed the development of the Sackman Property with a mixed use project consisting of one, 4 story building not to exceed a height of 54 feet with 56 rental units, including 10 affordable units, approximately 3,752 sf of retail/commercial space, and 76 parking spaces, all as shown in the concept plan dated July 19, 2024, (the "Sackman Project"), subject to Sackman and the Borough entering into a Redevelopment Agreement; and

**WHEREAS**, a proposed form of Settlement Agreement has been prepared with respect to the Sackman Project, as set forth in Exhibit A, (the "Sackman Settlement Agreement") setting forth the terms, conditions, responsibilities and obligations of Sackman and the Borough with respect to the Sackman Project, and in furtherance of compliance with the Borough's affordable housing obligations in the pending DJ Action; and

**WHEREAS**, the Borough finds that it is in the best interest of the Borough to seek approval from the Court of the proposed Sackman Settlement Agreement in an effort to meet its constitutional obligations for the Third Round in the pending DJ Action; and

**WHEREAS**, Judge Grasso Jones has scheduled a Fairness Hearing in the DJ Action for September 24, 2024 with respect to the Sackman Settlement Agreement (the “Fairness Hearing”).

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Belmar, in the County of Monmouth and State of New Jersey, that the Mayor and Borough Attorney and/or Borough Special Redevelopment/Affordable Housing Counsel are hereby authorized to proceed at the Fairness Hearing to seek the approval of the Sackman Settlement Agreement, in substantially the form appended hereto as **Exhibit A**.

**BE IT FURTHER RESOLVED** that, once approved by the Court, the Mayor is hereby is further authorized to execute the Sackman Settlement Agreement, with such changes, omissions or amendments as may be required by the Court, and such other documents or agreements as may be necessary to effectuate the Sackman Settlement Agreement and as appropriate, the dismissal of all applicable pending litigation, which documents shall be in a form approved by the Borough Attorney and/or Borough Special Redevelopment/Affordable Housing Counsel.

**BE IT FURTHER RESOLVED** that the Municipal Clerk is hereby authorized and directed, upon execution by the Mayor of the Sackman Settlement Agreement and such other documents or agreements as are necessary to effectuate the Sackman Settlement Agreement and as appropriate, the dismissal of all applicable pending litigation, to attest to the signature of the Mayor upon such documents.



**EXHIBIT A**  
**SACKMAN SETTLEMENT AGREEMENT**