

BOROUGH OF HAMPTON  
HUNTERDON COUNTY, NEW JERSEY  
RESOLUTION NO. 65-2017

RESOLUTION AUTHORIZING LETTER TO HIGHLANDS COUNCIL CONCERNING RESCISSION OF ORDINANCE NO. 06-11; AUTHORIZING MAYOR CREGAR TO SIGN REVISION TO AMENDED LITIGATION SETTLEMENT AGREEMENT WITH JACOB HABERMAN AND HAMPTON FARM, LLC; AND AUTHORIZING ACTIONS REQUIRED BY MARCH 30, 2016 FINAL JUDGMENT OF COMPLIANCE

WHEREAS, the Borough of Hampton ("Borough") is required to make provision for affordable housing; and

WHEREAS, on October 26, 2015, the Borough entered into an Amended Litigation Settlement Agreement with Hampton Farm, LLC, a/k/a the Haberman Group and/or Jacob Haberman (collectively referred to as "Haberman"); and

WHEREAS, the Amended Litigation Settlement Agreement was reviewed in a Fairness Hearing and approved by the Honorable Peter A. Buchsbaum, J.S.C. by entry on March 30, 2016 of a Final Judgment of Compliance; and

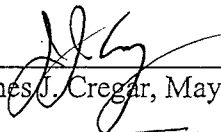
WHEREAS, the Amended Litigation Settlement Agreement requires the Borough to support, submit or endorse as necessary, any required applications necessary for Haberman to process applications for development of the Hampton Farm property (Lot 1, Block 23); and

WHEREAS, Haberman has requested that the Borough take certain actions to allow Haberman to process development applications, said actions including: rescission of Ordinance No. 06-11; authorization of the Mayor to sign a revision to the Amended Litigation Settlement Agreement; authorization of actions necessary to allow submission of a water allocation permit modification application to provide sufficient water supply for development of the Hampton Farm property pursuant to the Final Judgment of Compliance and authorization of actions necessary to allow submission of a water quality management plan amendment for development of the Hampton Farm property pursuant to the Final Judgment of Compliance; and

WHEREAS, the Haberman Group has confirmed its obligation pursuant to the October 26, 2015 Amended Litigation Settlement Agreement, to either provide all necessary application documents or reimburse Hampton Borough for the cost of preparing such documents and to also reimburse Hampton Borough for its expenses in connection with processing the required applications.

NOW, THEREFORE, be it resolved by the Mayor and Council of the Borough of Hampton, Hunterdon County, New Jersey, as follows:

1. Mayor Cregar is hereby authorized to execute the attached Revision to Amended Litigation Settlement Agreement attached to this Resolution;
2. The Borough Attorney is authorized to send Ordinance No. \_\_\_\_-2017 Rescinding Ordinance No. 06-11 to the Highlands Council with a letter indicating that Hampton Borough is withdrawing its petition for plan conformance in the Planning Area;
3. The Borough Engineer, Borough Attorney and Water Department Superintendent, and other personnel as necessary, are authorized to take necessary actions in order to submit a water allocation permit modification to provide sufficient water supply for development of the Hampton Farm property as anticipated pursuant to the March 30, 2016 Final Judgment of Compliance and to submit a water quality management plan amendment to allow on-site sewer service for development of the Hampton Farm property as anticipated pursuant to the March 30, 2016 Final Judgment of Compliance, said actions to be taken after consultation with Haberman and his consultants with Haberman preparing documentation and reimbursing Hampton Borough for its expenses on processing these applications.

  
\_\_\_\_\_  
James J. Cregar, Mayor  
Adopted: July 24, 2017

Attest:

  
\_\_\_\_\_  
Cathy Drummond, RMC

## REVISION TO AMENDED LITIGATION SETTLEMENT AGREEMENT

WHEREAS, the Borough of Hampton, a municipal corporation of the State of New Jersey and the Council of the Borough of Hampton (hereinafter collectively referred to as “Hampton Borough”) and Jacob Haberman and Hampton Farm, LLC (both hereinafter collectively referred to as “Haberman”), executed on October 26, 2015, an Amended Litigation Settlement Agreement; and

WHEREAS, after a fairness hearing, on March 30, 2016, a Final Judgment of Compliance as to Borough of Hampton was entered by the Honorable Peter A. Buchsbaum, J.S.C. (retired, on recall), which Final Judgment of Compliance approved the October 26, 2015 Amended Litigation Settlement Agreement and required the parties to take specified actions to conform with the Final Judgment of Compliance; and

WHEREAS, the parties have proceeded to act in good faith in accordance with the March 30, 2016 Final Judgment of Compliance and the October 26, 2015 Amended Litigation Settlement Agreement, with Hampton Borough adopting on May 26, 2016, the Amendment to the June 7, 2010 Third Round Housing Element and Fair Share Plan as required by paragraph 1 of the Final Judgment, and adopting on July 11, 2016, Ordinances 03-2016 and 04-2016 as required by paragraphs 2 and 4 of the Final Judgment, and Haberman on August 19, 2016, providing the required \$96,000 payment to the Hampton Borough Affordable Housing Trust Fund as required by paragraph 9 of the October 26, 2015 Amended Litigation Settlement Agreement; and

WHEREAS, after conferring with Highlands Council staff members, the parties have determined that an alternative process for dealing with Highlands Regional Master Plan plan conformance should be pursued in lieu of the process anticipated in paragraph 10 and Schedule

B of the October 26, 2015 Amended Litigation Settlement Agreement and paragraph 5 of the March 30, 2016 Final Judgment, with Haberman reserving the right to return, if necessary, at a later time to the process originally set forth in paragraph 10 and Schedule B of the Amended Litigation Settlement Agreement; and

WHEREAS, the parties have determined that this Revision does not affect Hampton Borough's rights pursuant to the March 30, 2016 Judgment of Compliance because it merely changes an anticipated government permit process and does not affect the scope of the Haberman inclusionary development, number of affordable housing units to be provided both in that development and through rehabilitation funding; and

NOW, THEREFORE, in consideration of the mutual covenants, promises and terms and conditions hereinafter provided, it is agreed by and between Hampton Borough and Haberman as follows:

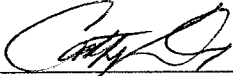
1. All of the provisions of the October 26, 2015 Amended Litigation Settlement Agreement, except to the extent modified in this Revision, shall remain in full force and affect.
2. Paragraph 10 of the Amended Litigation Settlement Agreement is hereby revised to refer to the Revised Schedule B as attached to this Revision.
3. Haberman reserves the option at a later time to the extent necessary, to request and to have Hampton Borough refile its Plan Conformance Petition Ordinance and pursue the center designation and/or map adjustment to Existing Community Zone option as discussed in the Schedule B attached to the October 26, 2015 Amended Litigation Settlement Agreement.
4. Haberman reaffirms the obligation to pay all application costs as stated in paragraph 10 of the October 26, 2015 Amended Litigation Settlement Agreement as follows:

“Additionally, Hampton Borough shall support, submit or endorse, as necessary, any required application to the Highlands Council, DEP or other government agency, including but not limited to those applications listed on the attached Schedule B. Where State agency regulations or policies require the application to be submitted by Hampton, Haberman shall, at his option, either provide all necessary application documents or reimburse Hampton Borough for the cost of preparing such documents.”

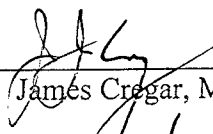
5. Upon execution, this revision to the Amended Litigation Settlement shall be binding upon the parties, their heirs, successors in interest and assigns.

6. This Revision to the Amended Litigation Settlement Agreement shall be enforceable in the Law Division of the Superior Court.

Attest:

  
\_\_\_\_\_  
Cathy Drummond, Clerk


Borough of Hampton Council

By:   
\_\_\_\_\_  
James Cregar, Mayor

Dated: 7/24/17


Witness:

  
\_\_\_\_\_


  
\_\_\_\_\_  
Jacob Haberman

Dated: 7/24/17

Witness:

  
\_\_\_\_\_

Hampton Farm, LLC

By:   
\_\_\_\_\_  
Jacob Haberman, Treasurer Manager

Dated: 7/24/17

Revised  
Schedule B

**Necessary Hampton Borough Actions to Allow Development of Haberman Property**

The following applications would have to be submitted and pursued. Haberman will provide, at his own cost, all necessary plans, documents and application forms/fees to support these applications:

1. Adoption of Ordinance Rescinding Ordinance No. 06-11, said Ordinance No. 06-11 entitled "Ordinance To Petition The Highlands Council For Plan Conformance For The Planning Area", and transmission of the Rescission Ordinance to the Highlands Council with letter indicating Hampton Borough withdrawal of Petition for Planning Area Conformance;
2. Wastewater Management Plan amendment (if applicable, site specific amendment) to place Haberman property in a sewer service area to allow onsite discharge to groundwater and a sewage treatment plant;
3. Endorsement signatures on Haberman applications for NJPDES and TWA permits for groundwater disposal/sewage treatment system and if applicable, a TWA permit for water line extension.
4. If deemed necessary by DEP, applications for modification of Hampton Borough's water allocation permit to increase pumpage and allocation limits of main and back-up wells;
5. Hampton Borough construction and authorization to operate back-up well;
6. DEP Bureau of Safe Drinking Water application to allow construction of water lines and any other water facilities needed for service to the Haberman property, as well as an application to DEP for connection of Haberman property to water system.

BOROUGH OF HAMPTON  
COUNTY OF HUNTERDON  
ORDINANCE NO. 04-2017

AN ORDINANCE OF THE BOROUGH OF HAMPTON, COUNTY OF HUNTERDON AND  
STATE OF NEW JERSEY RESCINDING ORDINANCE NO. 06-11

**WHEREAS**, the Highlands Water Protection and Planning Act (hereinafter referred to as the “Highlands Act”) states that if a portion of the municipality is located within the Highlands Planning Area, the municipality may, by Ordinance, petition the Highlands Council of its intention to revise its Master Plan, Development Regulations and other regulations as applicable to the development and use of land in the Highlands Planning Area, to conform them with the goals, requirements and provisions of the Highlands Regional Master Plan (said Ordinance hereinafter referred to as a “Highlands Petition Ordinance”); and

**WHEREAS**, the Borough of Hampton, on October 24, 2011, adopted the annexed Ordinance No. 06-11, as the Hampton Borough Highlands Petition Ordinance; and

**WHEREAS**, the Highlands Council adopted Resolution 2010-9 on November 19, 2010, approving Hampton Borough’s Petition for Plan Conformance in both the Planning Area and Preservation Area; and

**WHEREAS**, Hampton Farm, LLC appealed Highlands Council Resolution 2010-9 and the Appellate Division of Superior Court issued an April 12, 2013 Order remanding the Highlands Council Plan Conformance Approval to, in part, allow Hampton Borough to consider whether plan conformance is appropriate for the portion of the Borough which is in the Highlands Planning Area; and

**WHEREAS**, on October 26, 2015, Hampton Borough and Hampton Farm, LLC/Haberman entered into an Amended Litigation Settlement Agreement, which Agreement was approved by the March 30, 2016 entry of a Final Judgment of Compliance as to Hampton Borough by the Honorable Peter A. Buchsbaum, J.S.C.; and

**WHEREAS**, the only large vacant property in the Highlands Planning Area of Hampton Borough is the Hampton Farm, LLC property (Lot 1, Block 23) and the proposed affordable housing development of that property has been determined in the March 30, 2016 Final Judgment and October 26, 2015 Amended Litigation Settlement Agreement; and

**WHEREAS**, the Council finds that the Highlands conformance petition for the Planning Area of the Borough of Hampton is not necessarily consistent with the goals and objectives of the Borough of Hampton in view of the fact Hampton Borough has extensive areas of land located within the Highlands Preservation Area and the development of the Hampton Farm, LLC property for affordable housing purposes is governed by the Amended Litigation Settlement Agreement and the Final Judgment of Compliance;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Borough of Hampton, County of Hunterdon and State of New Jersey as follows:

Section 1. Ordinance No. 06-11 is hereby rescinded in its entirety.

Section 2. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

\_\_\_\_\_  
James J. Cregar, Mayor

Attest:

\_\_\_\_\_  
Cathy Drummond, Clerk

Date of Adoption: \_\_\_\_\_

I, Cathy Drummond, Municipal Clerk for the Borough of Hampton do hereby certify that the forgoing is a true and exact copy of the ordinance as adopted at a Regular meeting of the Council that was held on \_\_\_\_\_, 2017

\_\_\_\_\_  
Cathy Drummond, RMC  
Municipal Clerk



**HAMPTON BOROUGH**  
**ORDINANCE TO PETITION THE HIGHLANDS COUNCIL FOR PLAN**  
**CONFORMANCE FOR THE PLANNING AREA**  
**ORDINANCE NO. 06-11**

**Section 1 Purpose**

The Borough of Hampton is located partially within that portion of the New Jersey Highlands Region defined by the Highlands Act, as the "Planning Area" (see definitions, below). This Ordinance is enacted pursuant to Section 15.a. of the Highlands Water Protection and Planning Act (Highlands Act, N.J.S.A. 13:20-1 et seq.), which provides that a municipality may choose to conform its master plan, development regulations, and other regulations to the provisions of the Highlands Regional Master Plan, with respect to lands located within the Planning Area, and by Ordinance, petition the New Jersey Highlands Water Protection and Planning Council (Highlands Council) for Plan Conformance approval of such planning and regulatory documents.

By adoption of this Ordinance, the Governing Body of the Borough of Hampton establishes that the municipality shall conform its master plan, development regulations, and all other regulations applicable to the use and development of land within the Planning Area of the municipality, to achieve consistency with the goals, requirements, and provisions of the Highlands Regional Master Plan. Said conformance shall be in accordance with the provisions of Highlands Council approval of the municipality's Petition for Plan Conformance, which was previously submitted to the Highlands Council by Resolution adopted by the Governing Body on November 24, 2009, and which the Highlands Council approved with certain conditions by Highlands Council Resolution No.2010-9, adopted on November 19, 2010. Further, this Ordinance specifically reserves the rights of the municipality as specified by the Highlands Act, with respect to the voluntary nature of Plan Conformance for the Planning Area.

**Section 2 Basis and Background**

The Highlands Act finds and declares that protection of the Highlands Region is an issue of State level importance because of its vital link to the future of the State's drinking water supplies and other significant natural resources. The Highlands Act creates a coordinated land use planning system requiring the Highlands Council to prepare and adopt a Regional Master Plan that serves to protect, restore and enhance the significant resources the Highlands Region. The Highlands Act sets forth a bifurcated system for municipal conformance with the goals, requirements and provisions of the Regional Master Plan. Pursuant to Section 14.a. of the Highlands Act, a municipality located wholly or partially in the Preservation Area was required to submit by December 8, 2009 a revised municipal master plan, development regulations and other regulations, as applicable to the development and use of land in the Preservation Area, to conform them with the Regional Master Plan.

Pursuant to Section 15.a. of the Highlands Act, for a municipality located wholly in the Planning Area or for any portion of a municipality lying within the Planning Area, the municipality may submit at any time a revised master plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, that conforms with the

Regional Master Plan. Plan Conformance by a municipality is strictly voluntary for lands in the Planning Area.

Consequently, Hampton Borough, having lands in the Planning Area of the Highlands Region, did submit as part of a Petition for Plan Conformance to the Highlands Council on December 8, 2009 proposed revisions to the master plan, development regulations and other regulations that relate to the development and use of land in the Planning Area. On November 19, 2010, the Highlands Council adopted Resolution No. 2010-9 approving Hampton Borough's Petition for Plan Conformance. The approval was conditioned upon the Hampton Borough's adoption of an ordinance pursuant to Section 15a of the Highlands Act, formally petitioning the Highlands Council for Plan Conformance for lands within the Planning Area.

### Section 3 Applicability

This Ordinance applies to the development and use of land located in the Planning Area of Hampton Borough, as defined by Section 7 of the Highlands Act.

### Section 4 Definitions

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**Highlands Council** – means the New Jersey Highlands Water Protection and Planning Council.

**Highlands Act** – means the Highlands Water Protection and Planning Act, P.L. 2004, c.120, as amended, codified in part at N.J.S.A. 13:20-1 et seq.

**Highlands Region** means all that area within the boundaries of the municipalities listed in subsection a. of section 7 of the Highlands Act.

**Planning Area** - means lands within the Highlands Region not within the Preservation Area (N.J.S.A. 13:20-7).

**Plan Conformance** – means the process by which a municipality revises the master plan, development regulations and other regulations related to the development and use of land to conform them with the goals, requirements, and provisions of the Regional Master Plan in accordance with the Highlands Plan Conformance Guidelines.

**Preservation Area** – means that portion of the Highlands Region so designated by subsection b. of section 7 of the Highlands Act.

**Regional Master Plan**– means the Highlands regional master plan or any revision thereof adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8.

### Section 5 Petition for Plan Conformance

Hampton Borough hereby formalizes its Petition for Plan Conformance to the Highlands Council, declaring it fully effective for lands in the Planning Area of the municipality, said Petition having been approved by the Highlands Council subject to the conditions as set forth in Highlands Council Resolution No. 2010-9, adopted on November 19, 2010.

### Section 6 Reserved Right of Withdrawal for Planning Area

At any time, the Hampton Borough may withdraw that portion of its Petition for Plan Conformance for the Planning Area. In such event, any approvals, rejections or conditions of the revised municipal master plan, development regulations or other regulations that pertain to the Planning Area, as set forth by the Highlands Council in approving Resolution No. 2010-9, will not be binding upon the Hampton Borough. Any such withdrawal, should it occur, shall require repeal of this Ordinance, and shall be followed by formal notification to the Highlands Council, sent within ten (10) days of adoption by certified mail and including a certified copy of such repealing ordinance.

### Section 6 Planning Grants and Technical Assistance

Upon application of Hampton Borough, the Highlands Council has made, or will make, grant funding and other financial and technical assistance available to Hampton Borough for the reasonable costs associated with the revision of the master plan, development regulations or other regulations, which revisions are designed to bring those plans and regulations into conformance with the Regional Master Plan. The Highlands Council shall provide grant funds for all mandatory aspects of Plan Conformance in accordance with the Plan Conformance Grant Program, and may also provide grant funds for the discretionary aspects of Plan Conformance as determined by the Highlands Council. As Plan Conformance for lands in the Planning Area is strictly voluntary, Hampton Borough retains the right to withdraw that portion of the Petition relating to lands lying in the Planning Area from the Plan Conformance process at any time.

### Section 7 Effective Date

This ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

ALL OF WHICH IS ADOPTED this 24<sup>th</sup> day of October, 2011, by the Hampton Borough Council.

Kristine Peterson  
Mayor

Cathy Drummond, RMC  
Municipal Clerk

I, Linda Leidner, Deputy Clerk of the Borough of Hampton, in the County of Hunterdon and the State of New Jersey do hereby certify that the foregoing Ordinance is a true copy of the Original Ordinance duly passed and adopted by a majority of the full membership of the Hampton Borough Council at its meeting of October 24, 2011.



Linda Leidner, RMC  
Deputy Municipal Clerk