

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT is made as of March ____, 2023 (the “Effective Date”) between the **Borough of Woodcliff Lake**, a New Jersey municipal corporation, with principal offices located at 188 Pascack Road, Woodcliff Lake, New Jersey 07677 (“Borough”) and **BCUW/Madeline Housing Partners, LLC** with principal offices located at 6 Forest Avenue, Suite 220, Paramus, New Jersey 07652 (“BCUW”). Borough and BCUW are hereinafter sometimes referred to as the “Parties”.

WITNESSETH:

WHEREAS, the Borough entered into that certain amended agreement with Fair Share Housing Center (“FSHC”) dated December 14, 2022 (the “Amended Settlement”), which was approved by the Court at a Fairness Hearing on January 24, 2023; and

WHEREAS, the Borough is the owner of that certain property located on Broadway and designated as Lot 1, Block 2502 on its tax assessment map (the “VFW Site”); and

WHEREAS, Section 9f of the Amended Settlement requires, among other things, that the Borough contract with appropriate professionals to outline the steps necessary to review how many affordable homes can be constructed on and develop a concept plan for the VFW Site; and

WHEREAS, BCUW is an experienced developer of affordable and special needs housing in the State of New Jersey and has expertise in the development, approvals, permitting, construction and funding of such projects; and

WHEREAS, the Amended Settlement specifically recognizes the BCUW as having the qualifications to perform the necessary evaluation.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt whereof is hereby acknowledged, the Parties hereto agree as follows:

1. Preamble. All of the recitals set forth above are incorporated herein as if set forth at length. Capitalized terms used herein and not defined shall have the meaning given to it in the Amended Settlement.
2. Study and Analysis. The BC UW shall analyze the VFW Site to determine the feasibility of developing the VFW Site for affordable housing. BC UW agrees it shall look at all aspects of the development process including municipal, county and state approvals, permitting and funding for such anticipated construction. BC UW understands and acknowledges that the goal of developing the VFW Site for affordable housing shall be consistent with the Amended Settlement which is to develop the VFW Site with affordable family units as a priority. Only if that is not realistic, in BC UW's reasonable opinion, then a concept plan shall be developed with alternate affordable housing types..
3. Concept Plan. BC UW agrees to provide its review and analysis with a proposed concept plan within 60 days of the Effective Date including proposed zoning parameters. The BC UW agrees that it shall engage all necessary design professionals as it sees fit to come up with an appropriate concept plan in accordance with the requirements of the Amended Settlement. Any proposed concept plans acceptable to Borough shall be presented to the Special Master and the Court for approval per the Settlement Agreement.

4. Compensation. Borough and BCUW agree that if a concept plan for the VFW Site is presented which the Court approves, the Parties shall move forward towards the development of the VFW Site on terms generally consistent with the lease agreement between the Parties for the North Broadway project whereby the Borough reimburses BCUW its predevelopment costs and BCUW undertakes to arrange financing, permitting, construct and manage the project. If, however, the VFW Site is deemed not developable due to environmental constraints after having sought a waiver and/or permit from the New Jersey Department of Environmental Protection (“DEP”), then in such case the Borough shall reimburse BCUW for its pre-development costs and the Parties shall have no further obligation to each other relative to the VFW Site except that BCUW shall provide Borough with all reports, plans and concepts developed for or in connection with the VFW Site including correspondence to and from the DEP.
5. Entire Agreement. This Agreement (including the exhibits and other documents attached hereto) contains all agreements, promises and understanding between the Borough and BCUW relating to the VFW Site.
6. Governing Law. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of New Jersey.
7. Notices. All notices hereunder, in order to be effective, must be in writing, and shall be given by either certified mail, return receipt requested, or by nationally recognized overnight courier service, addressed as follows (or to any other address that the party to be notified may have designated to the sender by like notice).

To Borough:

Borough of Westwood
188 Pascack Road
Woodcliff Lake, New Jersey 07677
Attn: Tomas J. Padilla, Business Administrator

With a copy to:

Jeffrey A. Zenn, Esq.
Cullen and Dykman LLP
433 Hackensack Avenue 12th Floor
Hackensack, New Jersey 07601

To BCUW:

Tom Toronto
BCUW/Madeline Housing Partners, LLC
6 Forest Avenue, Suite 220
Paramus, NJ 07652

With a copy to:

Brenda J. Stewart, Esq.
Beattie Padovano, LLC
200 Market Street, Suite 401
Montvale, NJ 07645

8. Waiver. No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition or duty of the other shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty.
9. Successors and Assigns. This Agreement shall be binding upon the parties, their respective, successors in interest, successors in title and assigns.
10. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute but one and the same instrument
11. Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, BOROUGH AND BCUW HEREBY WAIVE TRIAL BY JURY IN ANY LITIGATION BROUGHT BY

EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE VFW SITE.

12. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as a part of this Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable, provided such severability does not materially affect the basic understanding of the parties hereto as reflected in this Agreement.

[signatures on next page]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

ATTEST:

BOROUGH OF WOODCLIFF LAKE,
a New Jersey Municipal Corporation

By: *Deborah A. Stein*

By: *[Signature]*
_____, Mayor

Dated: March 20, 2023

WITNESS:

BCUW/MADELINE HOUSING PARTNERS, LLC

By: _____

By: _____
Thomas Toronto, Co-Manager

Dated: _____, 2023

By: _____

By: _____
Shari De Palma, Co-Manager

Dated: _____, 2023

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

ATTEST:

BOROUGH OF WOODCLIFF LAKE,
a New Jersey Municipal Corporation

By: _____


By: _____
_____, Mayor

Dated: _____, 2023

WITNESS:

BCUW/MADELINE HOUSING PARTNERS, LLC

By: _____

By: 

Thomas Toronto, Co-Manager

Dated: 3/30/23, 2023

By: _____

By: 

Shari De Palma, Co-Manager

Dated: 4/4/, 2023