

**TOWNSHIP OF MANSFIELD
BURLINGTON COUNTY**

RESOLUTION 2020-12-16

**RESOLUTION AUTHORIZING EXECUTION OF AMENDMENT TO 2005 CENTEX
SETTLEMENT AGREEMENT**

WHEREAS, Centex Corporation and Mansfield Township (now Pulte) are parties to a certain 2005 Settlement Agreement (the "Settlement Agreement"); and

WHEREAS, the Settlement Agreement resolved litigation between the parties concerning the development of property in the Township identified in the Settlement Agreement and known as Block 41, Lot 2.01 (the "Reed Property") and Block 42, Lot 1 ("the "Carty Property"); and

WHEREAS, the Settlement Agreement provided for dedication of the Reed Property to Mansfield Township, which has accomplished and completed; and

WHEREAS, the Settlement Agreement further provided for the payment of certain sums to the Township from the sale of each building lot by Centex to assist the Township in providing public sewer to certain areas of the Township; and

WHEREAS, the Settlement Agreement further provided for the development of the Carty Property for market rate age restricted homes, with a required set-aside for affordable housing; and

WHEREAS, the Township was subsequently named a Defendant in a builders remedy lawsuits requiring the Township to provide affordable housing in the Township; and

WHEREAS, as a result of said litigation, the Court established and ordered that the Township's constitutional obligation to provide for its regional share of affordable housing consisted of 379 units (114 units Second Round obligation, 255 units Third Round) and that the Township was entitled to a credit of 97 units of affordable housing already provided in the Villages of Mapleton; and

WHEREAS, as required by the builders remedy litigation, the Township prepared a Housing Element and Fair Share Plan (HE/FSP); and

WHEREAS, said HE/FSP provided, on page 52 that, the Carty Property was already recognized as "available, suitable, developable and approvable" under applicable COAH regulations, and thus was and is an appropriate affordable housing site; and

WHEREAS, the HE/FSP further provided, on page 53, that the Carty property would be developed for affordable housing as a necessary component of the Township's overall affordable housing obligation, and to accommodate said affordable housing, the Property would be rezoned for a density of four units per acre with a 20% set-aside for affordable housing, of which 13% would be available for very-low income housing; and

WHEREAS, the Township's HE/FSP was conditionally approved by Court Order dated February 19, 2020; and

WHEREAS, the Court Order further required the Township to satisfy all of the conditions of the Court Order, during the Court-ordered compliance phase, including an agreement with Pulte Homes as set forth in section 2(e) below:

"During the compliance phase, the Township shall provide to the Special Master, and to the Court, a Development Agreement between Mansfield Township and Pulte Homes and/or its successor-in-interest, as well as an inclusionary Zoning Ordinance to address the Pulte Homes component of the Township's overall HE/FSP. The percentage of the proposed affordable housing set-aside should be clarified and revised if necessary in the draft HE/FSP. The draft HE/FSP, the Development Agreement and Zoning Ordinance should specify the correct percentage of affordable units and identify applicable compliance parameters regarding income mix, bedroom mix, thirteen per cent (13%) very low income, affirmative marketing, 30 year income controls, consistent with HUAC Section 5:80 and any other relevant information and standards required to be met."; and

WHEREAS, The Township has negotiated an Amendment to the Settlement Agreement (the "Amendment"), said Amendment attached hereto and made a part hereof as Exhibit A; and

WHEREAS, the Amendment provides, *inter alia*, for the aforesaid rezoning of the Carty Property at a gross density of four units per acre with a 20% affordable housing set-aside, and further provides for development of the property in two phases. The first phase of the development will generate a portion of the required number of affordable units to satisfy the Township's current affordable housing obligation in Rounds Two and Three, based on the HE/FSP and the Court Order. The Amendment permits development of market housing in the second phase based on the Township's need to provide the required number of affordable units that the Township may be obligated to provide in the future, including Round Four, which is unknown at this time; and

WHEREAS, The Township Committee finds that the negotiation and execution of the Amendment to the Settlement Agreement is in the best interests of the residents and citizens of Mansfield Township for the following reasons:

1. As set forth in the Settlement Agreement, the Carty property was already approved for market rate housing at a density required to generate affordable housing on the site.
2. The Carty Property has already been recognized as "available, suitable, developable and approvable" under applicable COAH regulations, and thus was and is an appropriate affordable housing site.
3. The Carty property was already designated as an affordable housing site and a part of the Township's Housing Element and Fair Share Plan (HE/FSP) approved by Court Order.
4. The density and affordable housing set-aside in the first phase of the development of the Carty Property is directly tied to the Township's constitutional obligation to provide for its regional share of affordable housing in Rounds One and Two, as set forth in the HE/FSP and the Court Order approving same.
5. The density and affordable housing set-aside in the first phase of the development of the Carty Property further provides a "buffer" to protect the Township against non-compliance with the HE/FSP and the Court Order approving same, based on other components of the HE/FSP.
6. The density and affordable housing set-aside in the phase 2 of the development of the Carty Property is directly tied to the Township's constitutional obligation to provide for its regional share of affordable housing in Round Four and in the future, which at present is unknown.
7. The provisions of the Amendment protect the Township against future builders remedy litigation and the need to identify other sites for affordable housing both now and in the future.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Mansfield, County of Burlington, and State of New Jersey, that the Mayor and Clerk are hereby authorized to execute and deliver on behalf of the Township the Amendment to 2005 Centex Settlement Agreement attached hereto and made a part hereof as Exhibit A.

MOTION: HIGGINS

SECOND: MAGEE

ROLL CALL VOTE:

AYES: HIGGINS, MAGEE, OCELLO, CAIN, DIGIUSEPPE

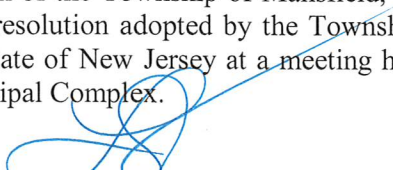
NAYS: NONE

ABSTAIN: NONE

ABSENT: NONE

CERTIFICATION

I, LINDA SEMUS, RMC, Municipal Clerk of the Township of Mansfield, do hereby certify the foregoing to be a true and accurate copy of the resolution adopted by the Township Committee of the Township of Mansfield, County of Burlington, State of New Jersey at a meeting held on December 16, 2020 at 7:00PM at the Mansfield Township Municipal Complex.



LINDA SEMUS, RMC, CMR, Municipal Clerk