

**TOWNSHIP OF MANSFIELD
BURLINGTON COUNTY**

RESOLUTION NO. 2022-12-28

**RESOLUTION AUTHORIZING EXECUTION OF THE AMENDED SETTLEMENT
AGREEMENT FOR THE TOWER GATE INDUSTRIAL ALTERNATE AFFORDABLE
HOUSING DEVELOPMENT**

WHEREAS, Tower Gate Associates (“Owner”) is the fee simple owner of certain real property consisting of approximately 118.53 acres located in the Township at the intersection of U.S. Route 130 and Kinkora Road and designated as Block 70, Lot 6.02 on the official tax map of the Township; and

WHEREAS, Developer is the contract purchaser of the Owner Parcels and Developer’s affiliated entity is the contract purchaser of Block 70, Lot 6.01 on the official tax map of the Township (together with Owner Parcels, the “Property”); and

WHEREAS, Owner filed a lawsuit in the New Jersey Superior Court, Burlington County, against Mansfield Township and the Mansfield Township Planning Board (the "Litigation"), challenging the Township's satisfaction of its constitutional affordable housing obligation and seeking to construct an inclusionary development on the Property as part of a builder’s remedy; and

WHEREAS, Owner and the Township entered into a November 18, 2019, Settlement Agreement, as amended by the First Amendment dated December 19, 2019, to resolve the Litigation (as amended, the "Original Settlement Agreement"); and

WHEREAS, the Original Settlement Agreement anticipated the development of an inclusionary development on the Property (the "Original Project") to satisfy, in part, Mansfield's Mount Laurel constitutional affordable housing obligation for the Third Round (1999-2025); and

WHEREAS, the Original Project was included in Mansfield's court approved Housing Element and Fair Share Plan (“HEFSP”); and

WHEREAS, the Original Settlement Agreement and the Original Project proposed an inclusionary affordable housing development consisting of five hundred and sixty (560) residential dwelling units, such that a maximum of ninety six (96) “affordable” housing units and four hundred and sixty four (464) “market” housing units were proposed for the Property, along with up to forty thousand five hundred (40,500) square feet of retail space; and

WHEREAS, upon acquiring title ownership of the Property, Developer has proposed to construct the maximum ninety six (96) “affordable” housing units contemplated in the Original Settlement Agreement and Original Project, but further proposes to construct an industrial development on the Property, rather than the market-rate multi-family apartments, townhomes, and retail space contemplated in the Original Settlement Agreement (the “Tower Gate Industrial Alternate Affordable Housing Development”); and

WHEREAS, Developer, with the Owner’s consent, has proposed to amend the Original Settlement Agreement with an Amended Settlement Agreement allowing the Developer to proceed with the Tower Gate Industrial Alternate Affordable Housing Development, to develop the Property for an industrial use and to construct the maximum number of 96 affordable housing units upon which the Township and the Owner previously agreed in the Original Settlement Agreement; and

WHEREAS, the Amended Settlement Agreement for the Tower Gate Industrial Alternate Affordable Housing Development will consist of the following terms:

1. Authorizing the development of industrial uses on the property not to exceed 1,100,000 s.f. of total building space, including a minimum building setback between the property and Crystal Lake Park of 100 feet with a 30 feet landscape buffer.
2. The industrial uses will replace all of the 464 market homes and the retail development previously proposed to subsidize the development of the 96 affordable housing units on the property that are required by Mansfield's court approved HEFSP.
3. The 96 affordable housing units will be constructed and will be subject to all COAH regulations, including phasing regulations requiring the affordable housing to be built prior to the completion of the industrial development.
4. The developer will deed restrict other properties in the Township, subject to approval by the Township Committee, preventing future development on said properties by way of either farmland preservation or open space deed restriction.
5. The Township Committee will refer the Property to the planning board for confirmation that the site qualifies as an area in need of redevelopment, under "smart growth planning principals adopted pursuant to law or regulation" as set forth in the New Jersey Redevelopment and Housing Law, N.J.S.A. 40A:12A-5(h), as an affordable housing development necessary for the Township to meet its Supreme Court mandated constitutional obligation to provide for its regional share of affordable housing. The developer and the Township will then enter into a financial agreement providing for an annual service charge in lieu of regular property taxes on the industrial improvements and the 96 affordable housing units. The amount of the Annual first 10 years of the pilot agreement Annual Service Charge will be pre-paid by the redeveloper.
6. Any proposed plan submitted to the Joint Land Use Board for approval will be subject to a condition that the developer construct a private road configuration to insure that Kinkora Road will not be used for truck traffic to and from the project, although it may be used for other traffic to and from the project as well as local traffic.

WHEREAS, the Township Attorney has recommended approval of the Amended Settlement Agreement based on the Township Committee's finding that replacing 464 residential dwellings and eliminating the concurrent municipal budget impacts and demand on municipal services benefits the residents of Mansfield Township and the Township as a whole. In addition, the deed restriction of additional open space/farmland preservation parcels, the 10 year pre-paid pilot annual service charge in lieu of regular property taxes, and the private road eliminating truck traffic on Kinkora Road represent significant and important additional benefits to the municipality; and

WHEREAS, upon receipt of all approvals for the Tower Gate Industrial Alternate Affordable Housing Development, the original settlement agreement, and the Ordinance permitting the Original Project, will be terminated and replaced with the Tower Gate Industrial Alternate Affordable Housing Development; and

WHEREAS, as authorized by the Township Committee adoption of Resolution 2022-12-2, the Township Attorney has completed negotiation of the Amended Settlement Agreement for the Tower Gate Industrial Alternate Affordable Housing Development, a copy of said agreement attached hereto and made a part hereof as Exhibit A.

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 and all required Township officials are hereby authorized to execute and deliver the Amended Settlement Agreement for the Tower Gate Industrial Alternate Affordable Housing Development, in substantially the form as attached hereto and made a part hereof as Exhibit A, subject to any modifications required by the Township Attorney prior to signature.

MOTION: OCELLO

SECOND: SISZ

ROLL CALL VOTE:

AYES: OCELLO, SISZ, TALLON, GOLEND, MOJENA

NAYS: NONE

ABSTAIN: TALLON (under consent - this resolution only) ABSENT:NONE

CERTIFICATION

I, LINDA SEMUS, RMC, Municipal Clerk of the Township of Mansfield, County of Burlington, State of New Jersey, 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 their Regular Meeting held on December 21, 2022 at the Mansfield Township Complex at 7:00 PM.

LINDA SEMUS, RMC , CRM
Municipal Clerk