

TOWNSHIP OF MANSFIELD

RESOLUTION NO. 2023-3-1

AUTHORIZING EXECUTION OF STIPULATION OF DISMISSAL AND CONSENT ORDER AND COMPLETION OF NEGOTIATIONS ON SETTLEMENT AGREEMENT TO RESOLVE LITIGATION FILED BY THE MYRA C. WAHLBERG TRUST AGAINST MANSFIELD TOWNSHIP AND THE MANSFIELD TOWNSHIP PLANNING BOARD

WHEREAS after preparation and adoption by the Joint Land Use Board of Resolution 2022-04-07 approving the reexamination of the Mansfield Township Master Plan by the Mansfield Township Joint Land-Use Board, the Township Committee adopted Ordinance 2022-6, prohibiting warehouse and logistic uses in Mansfield Township; and

WHEREAS, after serving notice to all of the property owners of 161 properties in the Township affected by Ordinance 2022-6 prohibiting said warehouse and logistic uses, and after adoption by the Joint Land Use Board of Resolution 2022-08-12 confirming that the Ordinance was consistent with the Township Master Plan, after reexamination, the Township Committee adopted Ordinance 2022-13 re-adopting Ordinance 2022-6; and

WHEREAS, both Ordinances exempted previously approved warehouse projects including five projects approved pursuant to a redevelopment plan prohibiting zoning changes on said properties, as well as two projects that had received approvals prior to adoption of the Ordinances from the Joint Land Use Board; and

WHEREAS, litigation has been filed by the Myra C. Wahlberg Trust (“Wahlberg Trust”) against the Township and the Joint Land Use Board challenging Ordinance 2022-13, and the warehouse ban generally (the “litigation”); and

WHEREAS, similar litigation was filed against the Township by Turnpike Junction, LLC (“Turnpike Junction”) and Turnpike Crossings IV, V & VI (“Turnpike Crossing”); and

WHEREAS, the Wahlberg Trust owns Block 4, Lots 3.01, 4.01 and 4.02, with frontage on U.S. Route 206, approximately 1,500 feet from Exit 7 of the New Jersey Turnpike. The Wahlberg Trust property is adjacent to the Turnpike Junction property and is in the same geographic area of the Manheim auto auction property as well as the warehouse projects already approved and under construction on Route 206; and

WHEREAS, portions of the Wahlberg Trust Property, along with the remaining property to be added, are also included in the Route 206 Northern Area Redevelopment Plan, the same Redevelopment Plan that includes the other warehouses on Route 206; and

WHEREAS, since the Wahlberg Trust property is already in the Redevelopment Area, if a warehouse can be developed on the Wahlberg Trust property, the Township and the Wahlberg Trust would already be entitled to enter in to a pilot agreement for payment of an Annual Service

Charge instead of regular property taxes, resulting in additional funds to the Township that are ultimately going to be very important given that, with the warehouse ban now being permanent, there will be little or no for future non-residential development in Mansfield; and

WHEREAS, the Turnpike Junction litigation, on property adjacent to the Wahlberg Trust property, has already been dismissed by a Stipulation of Dismissal without prejudice based on the settlement agreement dated January 9, 2023, subject to development approvals on the Route 206 property and deed restriction of the balance of the property for farmland preservation and open space; and

WHEREAS, the Wahlberg Trust and Township and Planning Board attorneys have agreed on a Consent Order which dismisses the Wahlberg Trust challenge to Section 12 of Ordinance 2022-13, which exempted the approved Lounsberry and Wainwright Turnpike Crossings developments from Ordinance 2022-13 and the ban warehouses on warehouses in Mansfield Township; and

WHEREAS, execution of the attached Consent Order will result in a Stipulation of Dismissal of the Turnpike Crossing litigation, said litigation;

WHEREAS, the Wahlberg Trust and Township and Planning Board attorneys have further agreed on the attached Stipulation of Dismissal of the Wahlberg Trust litigation, subject only to the completion of the required wetlands and other NJDEP approvals for the Wahlberg Trust property and the ultimate limits of disturbance on the Wahlberg Trust property being established, and the negotiation of a final settlement agreement and approval by the Township Committee and the Wahlberg Trust; and

WHEREAS, the Township and Planning Board attorneys have recommended execution of the Consent Order resulting in the Turnpike Crossings litigation and execution of the Stipulation of Dismissal resulting in the end to the Wahlberg Trust litigation, subject only to approval of the final settlement agreement; and

WHEREAS, further, authorization to finalize the settlement agreement with the Wahlberg Trust will end all challenges to Ordinance 2022-13 and the general ban on all warehouse and logistic uses in Mansfield Township; will limit any further warehouse development to the northern portion of the Township on Route 206 near New Jersey Turnpike Exit 7 already developed with warehouse and logistic uses; and will result in saving hundreds of thousands of dollars of litigation costs, including attorneys, planning and expert witness fees and costs; and

WHEREAS, the Township Attorney has recommended a settlement that would allow the Wahlberg Trust Property to be developed for a warehouse or other logistic use, but without any guaranteed minimum square footage or any other guarantee. The development to be permitted in the ultimate settlement agreement would be for whatever development, density and square footage area within the approved limits of disturbance that the Planning Board, DEP and DOT ultimately approve, in the same manner as the other warehouses on 206, as modified by settlement negotiations between the parties; and

