# **BOROUGH OF SEA GIRT**

**RESOLUTION NO. \_213--2020**

**RESOLUTION AUTHORIZING THE BOROUGH OF SEA GIRT TO ENTER INTO A SETTLEMENT AGREEMENT WITH 501 WASHINGTON BLVD, LLC, 503 WASHINGTON BLVD., LLC, SITCO SEA GIRT, LLC, AND SEA GIRT FIFTH AVENUE LLC**

**WHEREAS**, 501 Washington Blvd, LLC (“501 Washington”), 503 Washington Blvd., LLC (“503 Washington”), SITCO Sea Girt, LLC (“SITCO”), and Sea Girt Fifth Avenue LLC (“Sea Girt Fifth”) (collectively, the “Developer”) filed a Mount Laurel exclusionary zoning suit with the Superior Court of New Jersey, entitled 501 Washington Blvd, LLC, 503 Washington Blvd., LLC, Sea Girt Fifth Avenue LLC, Sitco Sea Girt, LLC v. Borough of Sea Girt, Borough Council of Sea Girt, and Sea Girt Planning Board, Docket No. MON-L-000102-20, seeking a builder’s remedy against the Borough of Sea Girt (the “Borough”), the Borough Council of Sea Girt (the “Borough Council”), and the Planning Board of the Borough of Sea Girt (the “Board”) (the “Builder’s Remedy Action”); and

**WHEREAS**, 501 Washington is the owner of a property within the Borough located at 501 Washington Boulevard and identified as Block 76, Lot 1 (the “501 Property”); 503 Washington is the owner of a property within the Borough located at 503 Washington Boulevard and identified as Block 76, Lot 2 (the “503 Property”); SITCO is the owner of a property within the Borough located at 500 Washington Boulevard and identified as Block 77, Lot 16 (the “500 Property”); and Sea Girt Fifth is the owner of a property within the Borough located at 905 Fifth Avenue and identified as Block 77, Lot 17 (the “Fifth Property”) (collectively, the “Properties”); and

**WHEREAS**, the 501 Property and the 503 Property are located on the north side of Washington Avenue (the “North Properties”) and the 500 Property and the Fifth Property are located on the south side of Washington Avenue (the “South Properties”); and

**WHEREAS**, the Developer was seeking through the Builder’s Remedy Action to construct a total of 42 residential units on the North Properties and South Properties with a fifteen percent set aside for low and moderate-income households; and

**WHEREAS**, as a result of settlement negotiations with the Borough, the Developer has proposed and the Borough agreed to permit the development of the North Properties and South Properties with a total of 19 residential units broken down as follows: a mixed-use inclusionary development consisting of nine (9) multi-family units and office/commercial use (the “North Development”) and to permit the development of the South Properties with a multi-family building consisting of ten (10) market-rate residential units (the “South Development”), each as generally shown in the concept plans and elevations attached to the Settlement Agreement (as hereinafter defined); and

**WHEREAS**, as part of the settlement, the Developer has further proposed, and the Borough has agreed to set aside three (3) residential units in the North Development for low-and moderate-income households to satisfy the required affordable housing obligation related to both the North Development and the South Development, which is considered one development for the purposes of satisfying said obligation; and

 **WHEREAS**, the Borough and the Developer wish to memorialize the terms of the Settlement in the proposed form of Affordable Housing Settlement Agreement attached hereto (the “Settlement Agreement”); and

**BOROUGH OF SEA GIRT**

**RESOLUTION NO. \_212--2020**

(continued)

 **WHEREAS**, the Borough Council believes it is in the best interest of the Borough to resolve the Builder’s Remedy Action as outlined in the Settlement Agreement to address a portion of the Borough’s yet to be determined overall constitutional obligation to provide for its fair share of affordable housing, and to avoid the cost and risk of further litigation.

 **NOW, THEREFORE, IT IS HEREBY RESOLVED**, by the Borough Council of the Borough of Sea Girt, in the County of Monmouth and State of New Jersey, that it hereby approves the Settlement of the Builder’s Remedy Action and hereby authorizes the Mayor to execute the Settlement Agreement in a form substantially similar to the form attached hereto, and to execute any other settlement documents necessary to effectuate the Settlement.

 **BE IT FURTHER RESOLVED** that a certified copy of this Resolution shall be provided to each of the following:

1. Andrew Bayer, Esq. Special Counsel
2. Craig P. Gianetti, Esq.

Recorded Vote: **SEA GIRT BOROUGH COUNCIL**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | AYES | NAYS | ABSENT | ABSTAIN |
| Councilman Clemmensen | X |  |  |  |
| Councilman Mastrorilli | X |  |  |  |
| Councilman Begley | X |  |  |  |
| Council President Fetzer | X |  |  |  |
| Councilwoman Giegerich | X |  |  |  |
| Councilwoman Anthony  | X |  |  |  |

**ATTEST:**

I hereby certify that the foregoing Resolution was adopted by the governing body of the Borough of Sea Girt on December 9, 2020.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Lorraine P. Carafa, RMC

Municipal Clerk-Administrator