

**TOWNSHIP OF WARREN
RESOLUTION NO. 2023-070**

A RESOLUTION AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO EXECUTE THAT CERTAIN CAPACITY ASSURANCE AGREEMENT WITH CHASE PARTNERS WARREN, LLC (“CPW”) AND 284 KING GEORGE ROAD, LLC (THE “APPLICANT”) AND PULTE HOMES OF NJ, LIMITED PARTNERSHIP (“PULTE”), FOR (I) THE REMAINING 61 EDU’S OF SEWAGE CAPACITY FOR PHASE 3 OF THE CHASE/PULTE PROJECT, AND (II) PAYMENT OF THE ENTIRE \$1,223,896.54, REPRESENTING THE CAPACITY IMPROVEMENT AMOUNT TO BRING 397 EDU’S TO THE PROJECT

WHEREAS, the Township is responsible for all matters pertaining to sewerage facilities and sewage disposal in the Township of Warren; and

WHEREAS, the Applicant is the developer of an affordable housing project being constructed on the property f/k/a Lots 1, 2, 3 and 4, Block 85.01 as shown on the tax map of the Township of Warren, located at the intersection of King George Road (CR 651) and Mountain Avenue, in Warren, New Jersey, (the “Property”) in the Stage IV Sewer Service Area, on which it seeks to build in the following three phases: (i) Phase 1 = 115 three-bedroom luxury townhomes (of which eight shall bear low- and moderate-income units); (ii) Phase 2 = 220 rental units, comprising 67 one-bedroom, 110 two-bedroom, and 44 three-bedroom units (of which 66 shall bear low- and moderate-income units); and (iii) Phase 3 = a 130-room hotel with the potential to include 75,000 square foot conference room and a 5,000 square foot restaurant with 200 seats (collectively the “Project”); and

WHEREAS, per Paragraph 17 of the 3rd Round Mount Laurel Affordable Housing Settlement Agreement (the “Settlement Agreement”), the Parties recognized and agreed that sufficient sewer capacity previously did not exist for the Project in the Stage IV Sewer Service Area; and

WHEREAS, per Paragraph 17 of the Settlement Agreement, the Parties further recognized and agreed that additional sewer capacity would need to be obtained for the Project in the Stage 1V Sewer Service Area (“Anticipated Capacity”); and

WHEREAS, in accordance with Paragraph 17, the Applicant previously submitted a Concept Plan Application for 397 equivalent dwelling units (“EDUs”) of capacity for the Project; and

WHEREAS, by its Resolution No. 18-88, the predecessor in interest to the Township prior to July 1, 2022, relative to all sewer matters, namely the Warren Township Sewerage Authority (the “WTSA”), authorized a reservation agreement with the Applicant for 397 EDUs of capacity for the Project; and

WHEREAS, the Township has undertaken certain analyses and improvements to its sanitary sewer system in order to obtain Anticipated Capacity for the Project, including the affordable housing development; and

WHEREAS, the Township achieved 336 EDUs of Anticipated Capacity for the Project; and

WHEREAS, CPW, with the consent of 284 KGR, elected to make an application solely for Phases 1 and 2 of the Project seeking preliminary approval of 336 EDUs of capacity to serve Phases 1 and 2 of the Project, including the addition of approximately 1,000 square feet within the multifamily building comprised of a community area and leasing office in Phase 2 of the Project (which increased the total EDUs for Phases 1 and 2 from 335 EDUs to 336 EDUs); and

WHEREAS, by WTSA Resolution No. 21-16 and subject to the terms and conditions thereof, the WTSA granted conditional Preliminary Approval for the Construction of Proposed Sanitary Sewers and Permit to Construct and for 336 equivalent dwelling units of capacity for only Phases 1 and 2 of the Project, including the addition of approximately 1,000 square feet within the multifamily building comprised of a community area and leasing office in Phase 2 of the Project; and

WHEREAS, excluding the 336 EDUs conditionally approved pursuant to WTSA Resolution No. 21-16 that Applicant used for Phases 1 and 2 of the Project, the only capacity that remains available to Applicant from the 397 EDUs authorized pursuant to WTSA Resolution 18-88 (and Paragraph 17) are 61 EDU's (i.e., 397 EDUs minus 336 EDUs) for Phase 3 of the Project, and

WHEREAS, subsequent to the WTSA's approval, closing has since been held on the Property, and the subdivision plat has been filed; and

WHEREAS, CPW is the current owner in fee simple of Block 85.01, Lot 1.02 as shown on the tax map of the Township, representing Phase 2 of the Project; and

WHEREAS, 284 KGR is the current owner in fee simple of Block 85.01, Lot 1.03 as shown on the tax map of the Township, representing Phase 3 of the Project (the "Phase 3 Property"); and

WHEREAS, Pulte is the current owner in fee simple of Block 85.01, Lot 1.01, Lot 1.04, and Lot 1.05 through and including Lot 1.111 as shown on the tax map of the Township, representing Phase 1 of the Project; and

WHEREAS, Lot 1.02 and Lot 1.03 together with Lot 1.01, Lot 1.04 and Lot 1.05 through and including Lot 1.111 in Block 85.01 are collectively one and the same property that was the subject of the WTSA's approval pursuant to WTSA Resolution No. 21-16; and

WHEREAS, the Applicant now requests that the remaining 61 EDUs or 17,080 gallons per day (i.e., 61 EDUs x 280 gpd of flow) of Anticipated Capacity be reserved to serve Phase 3 of the Project, consisting of a 130-room hotel with the potential to include a 75,000 square foot conference room and a 5,000 square foot restaurant with 200 seats to be constructed on the Phase 3 Property, which reservation shall be done under and pursuant to the terms and conditions set forth in this Agreement; and

WHEREAS, the Applicant and Pulte have agreed to pay the entire amount of money incurred by the WTSA to bring sewer capacity to the Project, in the total amount of \$1,223,896.54 (to be paid in accordance with the terms of the Capacity Assurance Agreement).

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Warren, in the County of Somerset and State of New Jersey, as follows:

- 1) The Mayor and Township Clerk are hereby authorized to execute that certain Capacity Assurance Agreement with the Applicant and Pulte, a copy of which is attached hereto and made a part hereof.
- 2) The Township Clerk is directed to forward a signed copy of the Capacity Assurance Agreement to the following attorneys:
 - a. Keith Davis, Esq.
Nehmad, Davis & Goldstein, PC
4030 Ocean Heights Avenue
Egg Harbor Township, NJ 08234
kdavis@ndglegal.com

- b. Jim Mullen, Esq.
 Pulte Homes of NJ, Limited Partnership
 750 US Highway 202, Suite 500
 Bridgewater, NJ 08807
Jim.Mullen@pultegroup.com

- 3) A signed copy of the Capacity Assurance Agreement is also to be forwarded to the Township Attorney, acting as counsel for the Sewer Department.

INTRODUCED	SECONDED	COMMITTEE	AYE	NAY	ABSTAIN	ABSENT
		CROSON	X			
X		LONTAI	X			
	X	SORDILLO	X			
		LAZO				X
		DINARDO	X			

CERTIFICATION

I, Cathy Reese, Township Clerk of the Township of Warren, in the County of Somerset, New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution adopted at a meeting of the Township Committee held on February 16, 2023.

Cathy Reese, RMC
 Township Clerk