

**Township of Pennsville
Resolution NO: 223-2022**

Title: A Resolution of the Mayor and Members of the Township Committee of the Township of Pennsville Authorizing the Township's Mayor to Enter into a Developer's Agreement with Del View, LLC., wherein the Township and Del View, LLC., Implement a Plan to Re-Zone certain Property within the Township Owned by Del View, LLC.

WHEREAS, Del View, LLC., (the "Developer") is the owner and developer of property located within the Township shown on the Township of Pennsville Tax Map as Block 4504, Lots 7, 21, 36, 36.01, 36.02, 36.03, 36.04, 36.05, and 36.06 (the "Property"); and

WHEREAS, the Property is a vacant, approximately 33.666 acre tract located in the Township's AH Zoning District which Property is identified as Inclusionary Zoning Sites 3 and 4 as part of the Township's court-approved Housing Element and Fair Share Plan; and

WHEREAS, the Township and the Developer are in agreement to pursue an amendment to the existing Housing Element and Fair Share Plan to relocate the Property's existing affordable housing obligation to a suitable offsite location; and

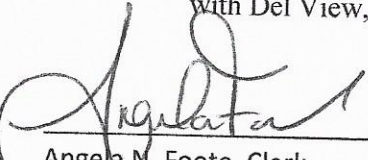
WHEREAS, the Developer's support of the proposed amendment is contingent upon the understanding that once the affordable housing obligation has been relocated, the Township will approve the development of approximately 124 market-rate single-family homes on the Property as well as certain development incentives; and

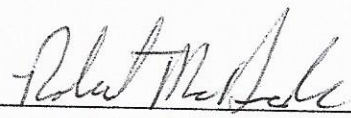
WHEREAS, the Developer and the Township have prepared a Developer's Agreement which establishes the parties' intents and obligations with regard to the relocation of the Property's affordable housing obligation and the re-zoning of the Property to accommodate the Developer's market-rate single-family home development plan (attached hereto as Exhibit A); and

WHEREAS, the mayor and members of the Township Committee of the Township of Pennsville find it to be in the best interests of the citizens of the Township to enter into the aforementioned Developer's Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and members of the Township Committee of the Township of Pennsville that:

1. They hereby adopt the facts and determinations as set forth in the preamble of this resolution as if the same were more fully set forth herein, and the facts and determinations shall have the same binding effect as the paragraphs set forth herein below.
2. The Township's Mayor is hereby authorized enter into the attached Developer's Agreement with Del View, LLC.


Angela N. Foote, Clerk
Dated: August 18, 2022


Robert E. McDade, Mayor

Record of Vote

Member	Aye	Nay	N.V.	A.B.	Res.	Sec.
Chastain			X			
Cook	X				X	
Halter	X					X
McDade	X					
Neu				X		

X indicates N.V.-Not Voting A.B.-Absent Res.-Resolution Moved Sec.-Resolution Seconded

DEVELOPERS AGREEMENT

AGREEMENT made this 29th day of AUGUST, 2022,
the **TOWNSHIP OF PENNSVILLE**, a municipal corporation of the State of
New Jersey, having its principal offices at 90 N. Broadway,
Pennsville, NJ 08070 (hereinafter referred to as the "Township"),
and **DEL VIEW, LLC** having its principal offices at 407 Pennington
Titusville Road, Titusville, NJ 08560 (hereinafter referred to as
"Developer"). This Agreement affects all or a portion of real
property known as Block 4504, Lots 7, 21, 36, 36.01, 36.02, 36.03,
36.04, 36.05, and 36.06, Pennsville, New Jersey (the "Property").

W I T N E S S E T H:

WHEREAS, the Developer represents that it is the owner and
developer of the Property described above and is represented by
Michael J. Lario, Jr., Esq., of Nehmad, Davis & Goldstein; and

WHEREAS, the Property is a vacant, approximately 33.666 acre
tract located in the Township's AH Zoning District. The Property is
also identified as Inclusionary Zoning Site 3 and 4 as part of the
Township's court-approved Housing Element and Fair Share Plan with
a permitted build-out of 264 Townhouse units; and

WHEREAS, the Developer has a long history of successfully
developing and maintaining affordable housing units and is ready,
willing, and able to develop the Property pursuant to the court-
approved Housing Element and Fair Share Plan; and

WHEREAS, based upon the ongoing conversations with the Township and the Developer, the Developer is prepared to support an amendment to the existing Settlement Agreement between the Township and Fair Share Housing Center and relocate the Property's existing affordable housing obligation; and

WHEREAS, the Developer's support of this proposed amendment to the Settlement Agreement is contingent upon the understanding that once the affordable housing obligation has been relocated to an off-site location, our client will obtain approval and incentives for the development of approximately 124 market-rate single-family homes on the Property;

NOW THEREFORE, the parties to this Agreement for and in consideration of the mutual promises and covenants to each other made and for good and valuable consideration, hereby agree for themselves, their successors and assigns as follows:

1. This Developers Agreement shall apply only to this project by the Developer.

2. The Developer and the Township agree to be bound by the testimony, representations, commitments, matters of fact and matters of law that constitute the file and record in this matter.

3. Specifically, the Township has agreed to amend the underlying zoning for the Property in accordance with the bulk standards contained in the attached Conceptual Plan prepared by Boston & Seeburger attached hereto as Exhibit "A." This amendment to the underlying Zoning Ordinance will reduce the required lot area and will allow the site to be developed with a minimum of 124 single-family residential units.

4. The proposed amendment to the underlying Zoning Ordinance will require a limited re-examination of the Pennsville Master Plan. The Developer will retain all professionals necessary for the preparation of a limited Master Plan re-examination. Once completed, the Developer will present the Master Plan re-examination to the Township Planner and Township Committee for review and approval. The Developer will be responsible for all costs associated with the preparation of the limited Master Plan re-examination.

5. The Township has agreed to formally commence the process of revising the court-approved Housing Element and Fair Share Plan and the existing Settlement Agreement with Fair Share Housing Center to include the relocation of the existing affordable housing obligation to a suitable off-site location.

6. Any revision to the court-approved Housing Element and Fair Share Plan and existing Settlement Agreement with Fair Share Housing Center to relocate the existing affordable housing obligation must also include an amendment to the Property's underlying zoning to allow for a minimum of 124 market-rate single-family residences.

7. Given the uncertainties with the existing residential real estate market and the Developer's voluntary support of the relocation of the existing affordable housing obligation for the Property, the following incentives have been negotiated between the Developer and the Township in connection with the proposed development:

- a. The Township will work with the Pennsville Sewerage Authority to waive anticipated water and sewer connection fees for the proposed 124-unit single-family development. This waiver would

result in a total savings of \$500,000.00 for the Developer.

- b. The Township would reserve water and sewer capacity for a period of five (5) years from the date of this Agreement.
- c. The amendment to the Township Ordinance for the underlying zoning district will include the removal of any provision or restriction on the import or export of soil necessary to balance the property.

8. Once the affordable housing obligation has been moved off site and the underlying zoning district has been amended, the Developer shall be responsible for securing all permits required by the law and others required by the ordinance of the Township and to pay the requisite fees called for under the appropriate fee ordinance, including but not limited to COAH development fees. Developer shall obtain Salem County Planning Board Approval.

9. Developer shall comply with all laws and regulations of the State of New Jersey, County of Salem, and Township of Pennsville. In addition, Developer shall comply with all environmental laws and regulations of the Federal and State Governments, including, but not limited to the State Flood Control Facility Act (N.J.S.A. 58:16A-1, et seq.), the Flood Hazard Area Control Act (N.J.S.A. 58:16A-51, et seq.), the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11, et seq.), the Industrial Site Recovery Act (N.J.S.A. 13:1K-6, et seq.), the Worker Community Right to Know Act (N.J.S.A. 34:5A-1, et seq.), the Noise Act of 1971 (N.J.S.A. 13:1G-1, et seq.), the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1, et seq.), the Water Pollution Control Act (N.J.S.A. 58:10A-1, et seq.), the Safe Drinking Water Act (N.J.S.A.

58:12A-1, et seq.), the Solid Waste Management Act (N.J.S.A. 13:1E-1, et seq.), the Reality Improvement and Sewerage Facilities Act (N.J..S.A. 58:11-23, et seq.), and any other environmental acts or regulations adopted by the federal, state, county or local government. Failure to comply with these laws and any violations thereof shall be deemed to constitute a material breach of this Agreement.

10. The Developer acknowledges that the agreements, conditions and amounts to be paid as conditioned herein have not been forced upon it by undue influence, coercion and are not being undertaken or paid under protest. Developer has reviewed all calculations and rationale for the agreements and payments set forth herein and is undertaking them voluntarily.

11. The Developer and Township shall exercise good faith, cooperate, and assist each other in fulfilling the intent and purpose of this Agreement, including, but not limited to, amending the underlying Zoning District and amending the existing Fair Share Housing Plan and Settlement Agreement with Fair Share Housing Center. With that being said, however, the Parties understand that this agreement is contingent upon happenings beyond the Parties' control, such as: 1) securing Fair Share Housing Center's approval of an amended Settlement Agreement; 2) securing court approval to amend the Township's Housing Element and Fair Share Plan, and; 3) surviving any potential challenges to the ordinances passed pursuant to an amended Housing Element and Fair Share Plan. Thusly, the Parties acknowledge and agree that the failure to materialize of any above-referenced contingency, despite the Township's diligent efforts to the contrary, shall not be considered a breach of this

agreement.

12. Developer agrees to indemnify and hold the Township, its officers, officials, agents, servants, representatives, employees and Township's designated consulting engineer and its employees harmless from and against any claims, liabilities, damages, costs or expenses of any kind in nature arising from Developer's performance of Developer's obligations pursuant to this Agreement and failure by Developer to perform such obligations, any action or failure to act by the Developer with respect to the development to which this Agreement is applicable or connection with any allegations of any of the foregoing. When requested by the Township, Developer agrees to aid and/or defend (using counsel selected by the Developer and reasonably acceptable to the Township) the Township, its officials, officers, agents, servants, representatives and employees in the event any or all of the same are named as defendants in any action relating to the activities or obligations of the Developer arising under this Agreement or in connection with the development to which this Agreement applies.

13. The Developer further acknowledges and understands all of the conditions contained in this Agreement and the record of the proceedings in this matter are hereby deemed to be essential to the Township's decision to enter into this Agreement. The Developer will have thirty (30) days following written notice from the Township to the Developer to cure any breach of such conditions unless such condition takes longer to cure and the Developer diligently pursues the cure until completion. the site until such time as breach has been remedied.

14. In the event that the Township or Developer fails to perform any material obligation on its part to be performed pursuant to the terms and conditions of this Agreement, unless such obligation is waived by all of the other Parties for whose benefit such obligation is intended, or by the Court, such failure to perform shall constitute a default of this Agreement. Upon the occurrence of any default, the non-defaulting party shall provide notice of the default and the defaulting party shall have a reasonable opportunity to cure the default within forty-five (45) days. In the event the defaulting party fails to cure within forty-five (45) days or such reasonable period of time as may be appropriate, or in the event of any other legal dispute between the Parties as it pertains to this Agreement, the Parties shall submit the matter to binding arbitration before the American Arbitration Association with the Parties each paying one half of the costs associated therewith. The construction, enforcement, interpretation, and validity of this agreement shall be governed by the laws of the State of New Jersey.

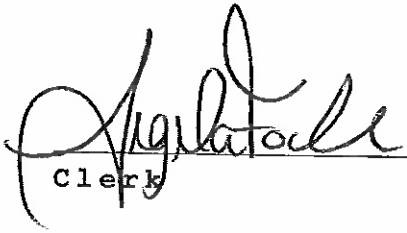
15. This Agreement may be freely assigned by the Developer to a separate entity comprised of the same individuals or entities which comprise the current Developer. Notwithstanding the above, this Agreement may not otherwise be assigned by the Developer without the written consent of the Township which consent shall not be unreasonably withheld.


16. This Agreement may only be modified by a written amendment signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ATTEST:

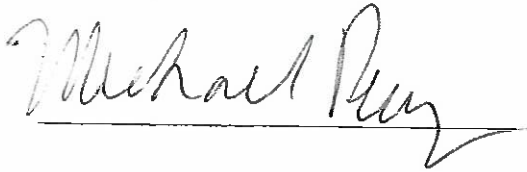
TOWNSHIP OF PENNSVILLE



Clerk


Robert McDade
Mayor

WITNESS:

_Del View, LLC



By: 
RON RUFEN, Authorized Member

STATE OF NEW JERSEY
COUNTY OF SUMMIT

SS.:

I CERTIFY that on _____, 2022,

Angela Fole personally came before me, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Clerk of the Township of Pennsville, the municipal corporation named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is the Mayor of the Township of Pennsville, a municipal corporation;
- (c) this document was signed and delivered by the municipal corporation as its voluntary act duly authorized by a proper resolution of its Council;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on
this 20th day of August, 2022.

Angela Fole
Angela Fole, Township Clerk

Stephanie M. Shane

STEPHANIE M. SHANE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 1/3/2023

STATE OF NEW JERSEY :
COUNTY OF mercer SS.:

I certify that on August 29, 2022, Ron Rukenstein, The Manager of Del View, LLC, personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person;

(a) is named in and personally signed the attached document as manager of Del View, LLC, a New Jersey Corporation; and

(b) signed, sealed and delivered this document as his or her act and deed on behalf of said Corporation.

DEBORAH L. SLIWINSKI
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 12/23/2024

Deborah L. Slivinski

STATE OF NEW JERSEY
COUNTY OF Salem

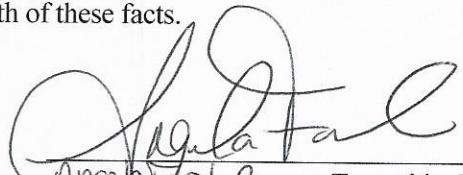
SS.:

I CERTIFY that on _____, 2022,

Angela Fole personally came before me, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Clerk of the Township of Pennsville, the municipal corporation named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is the Mayor of the Township of Pennsville, a municipal corporation;
- (c) this document was signed and delivered by the municipal corporation as its voluntary act duly authorized by a proper resolution of its Council;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on
this 20th day of August, 2022.


Angela Fole, Township Clerk

Stephanie M Shane

STEPHANIE M. SHANE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 1/3/2023

STATE OF NEW JERSEY :
COUNTY OF _____

SS.:

I certify that on _____, 2022, _____, The _____ of _____, LLC, personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person;

- (a) is named in and personally signed the attached document as _____ of _____, LLC, a New Jersey Corporation; and
- (b) signed, sealed and delivered this document as his or her act and deed on behalf of said Corporation.