

DEVELOPER'S AGREEMENT

This agreement is made and effective on _____, 2023, by and between MARCH POMPTON PLAINS CROSSROAD LLC, a New Jersey limited liability company, with a mailing address of 601 Hamburg Turnpike, Suite 300, Wayne, New Jersey 07470 ("Developer"), and THE COUNTY OF PASSAIC, a body politic of the State of New Jersey, having an address of 401 Grand Street, Patterson, NJ 07505 ("County").

WITNESSETH:

WHEREAS, Developer is the owner of property located at 125 Pompton Plains Crossroad (County Route 680) and otherwise known as Block 2521, Lot 47.01 on the official tax duplicates in the Township of Wayne ("Property"); and

WHEREAS, the Passaic County Planning Board ("the Board") granted conditional approval of the development of the Property, as memorialized by resolution on November 16, 2023 ("Resolution"); and

WHEREAS, to ensure that Developer complies with the terms of the Resolution, the Board will require Developer to enter into an agreement with the County to fulfil the conditions as set forth therein, including traffic studies post-construction, maintenance and drainage obligations, and a hold harmless agreement relative to certain runoff from the County right of way into the infiltration basin on the Property; and

NOW, THEREFORE, Developer and the County hereby agree as follows:

1. Traffic Studies. Developer shall submit to the County new traffic studies (each a "Traffic Study", together the "Traffic Studies") that assess the actual trip generation of the completed facility. The Traffic Studies shall be submitted after one (1) year, two (2) years, five (5) years, and ten (10) years) following the date a certificate of occupancy is issued by the Township of Wayne. Any Traffic Study shall have the following scope:
 - a. Traffic counts will be taken on a typical weekday during the peak hours of operation in the morning and the evening, as established by prevailing traffic patterns on the surrounding roadway network as determined by the Developer's traffic engineer;
 - b. The Traffic Study will analyze volume and signal timing changes required to obtain optimization by recommending re-timing (as needed) at intersections along County Route 680. To the extent any signal re-timing is proposed based on the operations of any tenant, the Developer shall be responsible for the pro-rata share of costs for any increase in volume along County Route 680 attributable to the development of the Property which necessitates such re-timing.
2. Hold Harmless for Stormwater, Silt, and Debris. The parties recognize that the drainage systems as designed for the Property will alter the existing drainage patterns.

PASSAIC COUNTY PLANNING BOARD
FILE NO _____

To the extent that any harm is caused to the Property by virtue of stormwater, silt, or other debris associated with typical roadway conditions conveyed by the drainage system approved by the Resolution, the Developer hereby waives any and all claims against the County for damage to the Property resulting from such stormwater, silt, or other debris originating from the County right of way. The Developer further holds harmless and indemnifies the County for any claims made against the County for damage to the Property resulting from such stormwater, silt, or other debris originating from the County right of way.

3. Maintenance Allocation. As part of the improvement of the Property, Developer has constructed certain stormwater inlets along County Route 680, as well as certain stormwater piping, all as shown on the drainage plan prepared by Bohler Engineering, revised through Oct. 31, 2023. These improvements are all tied into the infiltration basin system located on the Property. The County shall inspect, maintain, and repair at its sole cost and expense the inlets and piping identified as B-Inlet #1, B-Inlet #2, and the piping between these inlets and the infiltration basin (the "Stormwater Improvements"). In the event of an emergency where such inlets or piping are no longer functioning and thereby are creating an emergent condition on the Property requiring immediate action by the Developer to protect the infiltration basin and the Property, the Developer shall immediately notify the County of such emergency, and may repair, replace, or otherwise maintain the Stormwater Improvements to abate the emergency and maintain the drainage on the Property consistent with applicable law, all at the cost of the County.
4. Violations. Upon receipt of written notice of any violation of the terms hereof, the County and the Developer shall be provided thirty (30) days to cure any such violation. In the event such a violation persists beyond the cure period, , in its discretion, formally request that the Borough of Woodland Park Construction Official withhold or deny the issuance of any further building permit(s) and/or certification of occupancy, or file an action in chancery/equity for specific performance to enforce the provisions of the Agreement. Developer understands and acknowledges that all terms and conditions of the previous approved site plan(s), and this Agreement, were critical and an essential part of the Boards decision to grant approval of the Developer's project. A violation of the terms and conditions of the Board's approval(s) will be considered a material breach and may result in the revocation of the Board's approval(s), and shall terminate the Developer's rights to construct, develop and occupy the property. In addition, Developer may be subject to prosecution for violating any and all local, county, state and federal laws, codes and regulations. The remedies available to the Board and the County shall not be limited to the remedies specified herein. The parties reserve their rights to exercise and any all rights and remedies available under the law and in equity, including an action for specific performance to enforce their rights herein.
5. Indemnification. Developer agrees to indemnify and hold the County, the Board, its officials, consultants, agents, servants, representatives, and employees, harmless from and against any and all claims, liability, costs or expenses of any and every kind and nature, in law or in equity, arising from Developer, or Developer's agents, contractors,

employees, firm, person, entity or corporation, acting on Developer's behalf, for its performance, or failure to perform, pursuant to its obligations under this Agreement and the associated Resolution.

6. Complete Agreement. This Agreement constitutes the complete and only agreement among Developer and the County regarding the subject matter hereof. The agreement shall supersede all prior agreements, grants, reservations of rights and/or understandings with respect to the subject matter hereof. This agreement may only be modified in writing signed by the parties; however, the parties agree to make such modifications as may be reasonably necessary to further its intent and purpose. This agreement shall be constructed and enforced in accordance with the laws of the State of New Jersey.
7. Compliance with Laws. The County and the Developer each agree, in exercising its rights of access and use arising under this Agreement, that it will comply with all statutes, laws, ordinances, rules, regulations, orders and other requirements of all agencies, bureaus, departments, and officials of Federal, State, municipal and local governments, public authorities and utility companies having or claiming jurisdiction over the Property, the County right of way, or any part thereof or any actions being taken thereon, which are applicable to the Property or any part thereof or the manner of use thereof, including but not limited to complying with all applicable environmental laws and regulations.
8. No Waiver. Nothing contained in this Agreement shall be deemed a waiver by any party of its rights under any ordinance or state statute or other law, or be construed as an abridgement, preemption or waiver of the powers of the County, the Board, or any other agency or public body.
9. Provisions Enforceable as Conditions. Each of the provisions of this Agreement shall have the same force and effect as if set forth at length as conditions of the Resolution.
10. Runs with the Land; Recording. This agreement shall run in perpetuity and shall be binding upon the parties hereto, their heirs, successors and assigns, and may be recorded in the official land records of the County.
11. Notices. Any notices required to be served upon any of the properties to the Agreement shall be served at the address previously set forth in the top of this Agreement unless a party serves a written change of address on the remaining parties. All notices given hereunder shall be in writing, shall be sent certified mail, return receipt requested, and shall be deemed given when mailed.

{Signatures to Follow}

IN WITNESS WHEREOF, this Agreement has been duly executed the day and year first above written.

WITNESS

COUNTY OF PASSAIC

By: _____
Name:
Title:

By: _____
Name: Bruce James
Title: County Commissioner Director

WITNESS

MARCH POMPTON PLAINS
CROSSROAD LLC.
a New Jersey limited liability company

By: _____
Name:
Title:

By: _____
Name:
Title:

ACKNOWLEDGEMENT

STATE OF NEW JERSEY

:SS

COUNTY OF _____

I CERTIFY that on _____, 2023, Lou March personally came before me and acknowledge under oath to my satisfaction, that this person or if more than one, each person, is the Authorized Signatory of March Pompton Plains Crossroad LLC; and personally signed this instrument; and signed and delivered this document as his or her act and deed as the duly authorized agent of such company.

Notary Public of New Jersey

STATE OF NEW JERSEY:

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COUNTY OF PASSAIC:

I CERTIFY that on _____, 2023, Bruce James, personally came before me and stated to my satisfaction that is person (or if more than one, each person):

- (a) Was the maker of this development Agreement;
- (b) Was authorized to and did execute this instrument as the Director of The Passaic County Board of County Commissioners, the entity named in this instrument;
- (c) Executed this instrument as the act of the entity named in this instrument.

Notary Public of New Jersey