

RESOLUTION NO. 2023-03

A RESOLUTION OF THE COUNCIL OF THE CITY OF COATESVILLE, CHESTER COUNTY, PENNSYLVANIA, GRANTING CONDITIONAL APPROVAL OF THE REQUEST TO MODIFY THE CONDITIONAL APPROVAL PREVIOUSLY GRANTED PURSUANT TO RESOLUTION NO. 2022-20, RESOLUTION NO. 2020-09, RESOLUTION NO. 2019-15, AND RESOLUTION NO. 2018-11 FOR THE AMENDED FINAL LAND DEVELOPMENT PLAN OF DEPG COATESVILLE ASSOCIATES, LP AND SETTING FORTH CONDITIONS OF SUCH APPROVAL, SUCH APPROVAL BEING CONDITIONED UPON ACCEPTANCE OF SAID CONDITIONS BY DEPG COATESVILLE ASSOCIATES, LP.

WHEREAS, the City of Coatesville (the “City”) is a Chartered Third Class City in the Commonwealth of Pennsylvania governed by the Third Class City Code and its Home Rule Charter; and

WHEREAS, pursuant to Resolution No. 2022-20, Resolution No. 2020-09, Resolution No. 2019-15, and Resolution No. 2018-11, collectively, the City granted Amended Conditional Land Development Approval for a plan entitled *Coatesville Mixed Use Redevelopment Amended Final Land Development* prepared by Pennoni Associates, Inc., dated August 4, 2017, last revised December 13, 2022, for DEPG Coatesville Associates, LP, (the “Approved Plan”); and

WHEREAS, pursuant to its terms, Resolution No. 2022-20 was “conditioned upon settlement on the sale of the 112 East Lincoln Highway Property occurring on or prior to December 31, 2022; and

WHEREAS, such settlement did not occur on or prior to that date and, pursuant to its terms, Resolution No. 2022-20 expired and became void at 11:59 P.M. on December 31, 2022; and

WHEREAS, 112 East Lincoln Highway Holdings, LLC and DEPG Coatesville Associates, L.P. heretofore requested that City Council revive, reaffirm, and readopt Resolution No. 2022-20 in its entirety, subject to modification of Condition No. 7 thereof to allow settlement to occur on or prior to January 31, 2023.

NOW, THEREFORE, BE IT RESOLVED by the Council for the City of Coatesville as follows:

1. Resolution No. 2022-20 (a copy of which is attached as **Exhibit A** hereto and is incorporated herein by reference) is revived, reaffirmed, and readopted in its entirety provided, however, that Condition No. 7 thereof is modified by the deletion of the words “December 31, 2022” and the insertion of the words “January 31, 2023” in their place and stead.

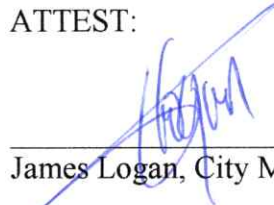
2. DEPG Coatesville Associates, LP, through its authorized representative, shall accept, by countersigning this Resolution, or rejecting all of the conditions set forth in Resolution No. 2022-20, within fifteen (15) days of the date hereof. This approval shall be automatically rescinded should DEPG Coatesville Associates, LP fail to accept or reject the above conditions within fifteen (15) days of the date hereof.

IN WITNESS WHEREOF, the Council of the City of Coatesville has adopted and enacted this Resolution this 9th day of January, 2023.



Linda Lavender-Norris, Council President

ATTEST:



James Logan, City Manager

I HEREBY CERTIFY that the foregoing is a true and correct copy of the said Resolution duly adopted at a regular meeting of City Council held on January 9, 2023 and recorded in the minutes as such.

The conditions set forth in Resolution No. 2022-20 are accepted by DEPG Coatesville Associates, LP and a copy of this Resolution No. 2023-03 is hereby deemed delivered in accordance with the requirements of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 *et seq.*

DEPG COATESVILLE ASSOCIATES, LP

By: DEPG Associates, LLC,
its General Partner

By: _____
Name: James DePetris

EXHIBIT A

[INSERT RESOLUTION NO. 2022-20]

RESOLUTION NO. 2022-20

A RESOLUTION OF THE COUNCIL OF THE CITY OF COATESVILLE, CHESTER COUNTY, PENNSYLVANIA, GRANTING CONDITIONAL APPROVAL OF THE REQUEST TO MODIFY THE CONDITIONAL APPROVAL PREVIOUSLY GRANTED PURSUANT TO RESOLUTION NO. 2020-09, RESOLUTION NO. 2019-15, AND RESOLUTION NO. 2018-11 FOR THE AMENDED FINAL LAND DEVELOPMENT PLAN OF DEPG COATESVILLE ASSOCIATES, LP AND SETTING FORTH CONDITIONS OF SUCH APPROVAL, SUCH APPROVAL BEING CONDITIONED UPON ACCEPTANCE OF SAID CONDITIONS BY DEPG COATESVILLE ASSOCIATES, LP.

WHEREAS, the City of Coatesville (the “City”) is a Chartered Third Class City in the Commonwealth of Pennsylvania governed by the Third Class City code and its Home Rule Charter; and

WHEREAS, pursuant to Resolution No. 2020-09, Resolution No. 2019-15, and Resolution No. 2018-11 (each of which is attached hereto as **Exhibit A**, **Exhibit B**, and **Exhibit C**, respectively), collectively, the City granted Amended Conditional Land Development Approval for a plan entitled Coatesville Mixed Use Redevelopment Amended Final Land Development prepared by Pennoni Associates, Inc., dated August 4, 2017, last revised June 7, 2019, for DEPG Coatesville Associates, LP, consisting of 24 sheets (the “Approved Plan”);

WHEREAS, that certain tax parcel known to the Board of Assessment of the County of Chester (the “Board of Assessment”) as Tax Map Parcel No. 16-5-232 and having an address at 112 East Lincoln Highway (the “112 East Lincoln Highway Property”) is, as of the date of this Resolution, included within the scope of the land development which is the subject of the Approved Plan;

WHEREAS, DEPG Coatesville Associates, LP contemplates selling the 112 East Lincoln Highway Property to that certain business entity named 112 East Lincoln Highway Holdings LLC separately and apart from the remainder of the properties which are the subject of the Approved Plan (collectively, the “Seller’s Remaining Properties”) and prior to recordation of the Approved Plan in the Office of the Recorder of Deeds in and for Chester County, Pennsylvania (the “Recorder’s Office”) ¹;

WHEREAS, 112 East Lincoln Highway Holdings LLC (in concert with and with the consent and approval of DEPG Coatesville Associates, LP) submitted to the City a request to further modify the Approved Plan to, *inter alia*, remove the 112 East Lincoln Highway Property from the scope of the Approved Plan (the “Modification Request”) which included a plan entitled

¹ The Seller’s Remaining Properties are known to the Board of Assessment as Tax Map Parcel No. 16-5-165, Tax Map Parcel No. 16-5-166, Tax Map Parcel No. 16-5-167, Tax Map Parcel No. 16-5-168, Tax Map Parcel No. 16-5-169, Tax Map Parcel No. 16-5-170, Tax Map Parcel No. 16-5-171, Tax Map Parcel No. 16-5-172, Tax Map Parcel No. 16-5-155, and Tax Map Parcel No. 16-5-156, respectively.

Coatesville Mixed Use Redevelopment Exhibit prepared by Pennoni Associates, Inc., dated September 21, 2022, consisting of one sheet (the “Modified Plan”); and

WHEREAS, as part of the Modification Request, and following further engagement with representatives of the City, DEPG Coatesville Associates, LP requested that the City approve and/or acknowledge the following items:

1. Condition No. 2 of Resolution No. 2019-15 and Condition No. 8 of the letter from the City Solicitor dated July 17, 2019, shall be amended to provide that DEPG Coatesville Associates, LP need not replenish the professional services escrow account which it maintains with the City unless and until DEPG Coatesville Associates, LP shall recommence development approvals-related work regarding the Seller’s Remaining Properties.
2. Except as set forth on Exhibit D to this Resolution, DEPG Coatesville Associates, LP need not complete any improvements, or satisfy any conditions of approval, which are required pursuant to Resolution No. 2019-15 and Resolution No. 2018-11, unless and until DEPG Coatesville Associates, LP shall recommence development approvals-related work regarding the Seller’s Remaining Properties.

WHEREAS, except as expressly amended pursuant to this Resolution, the waivers, terms, and conditions of Resolution No. 2020-09, Resolution No. 2019-15, and/or Resolution No. 2018-11 are incorporated herein by reference as though fully set forth here and shall be binding upon DEPG Coatesville Associates, LP; and

WHEREAS, the City Engineer has issued a most recent review letter dated October 10, 2022, with various comments regarding approval of the Modification Request, which such letter is attached hereto as Exhibit E (the “City Engineer Review Letter”); and

WHEREAS, the City Planning Commission met on October 12, 2022, and considered the Modification Request (including the Modified Plan) and voted in favor of approval of the Modification Request (including the Modified Plan).

NOW, THEREFORE, BE IT RESOLVED by the Council for the City of Coatesville that the City of Coatesville conditionally approves the Modification Request subject to the conditions listed below:

1. Prior to settlement on the sale of the 112 East Lincoln Highway Property as set forth in this Resolution, the Modified Plan shall be revised to the satisfaction of the City Engineer to comply with the City Engineer Review Letter, dated October 10, 2022.
2. At settlement on the sale of the 112 East Lincoln Highway Property to 112 East Lincoln Highway Holdings LLC, and pursuant to Condition No. B.2 of Resolution No. 2018-11, DEPG Coatesville Associates, LP shall enter into a Parking Easement Agreement providing for the use of eleven (11) off-street parking spaces at the 112

East Lincoln Highway Property by tenants of the Seller's Remaining Properties, which such Parking Easement Agreement shall be subject to prior review and approval by the City Solicitor.

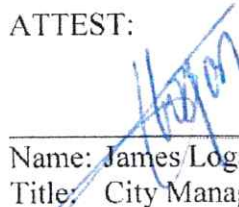
3. Condition No. 2 of Resolution No. 2019-15 and Condition No. 8 of the letter from the City Solicitor dated July 17, 2019, are amended to provide that DEPG Coatesville Associates, LP need not replenish the professional services escrow account which it maintains with the City unless and until DEPG Coatesville Associates, LP shall recommence development approvals-related work regarding the Seller's Remaining Properties.
4. Except as set forth on **Exhibit D** to this Resolution, DEPG Coatesville Associates, LP need not complete any improvements, or satisfy any conditions of approval, which are required pursuant to Resolution No. 2019-15 and Resolution No. 2018-11, unless and until DEPG Coatesville Associates, LP obtains required approvals and recommences construction of its project on the Seller's Remaining Properties. The financial security to be posted with Coatesville to insure the completion of such future project shall include the cost of all of the outstanding "punch list" items contained in Cedarville Final Punch List #1, dated March 24, 2021, and such "punch list" work will be performed as part of the construction of such future project.
5. At settlement on the sale of the 112 East Lincoln Highway Property as set forth in this Resolution, and from the proceeds thereof, DEPG Coatesville Associates, LP, shall establish escrow funds with the City in the amount of One Thousand and 00/100 Dollars (\$1,000) per tree for the replacement of five (5) streets on the southern side of Lincoln Highway for a total of Five Thousand and 00/100 Dollars (\$5,000), Twenty-Two Thousand and 00/100 Dollars (\$22,000) to complete the future streetscape work in front of the future building on the North Side of Lincoln Highway, and shall deliver to the City Solicitor written evidence of such establishment of escrow funds in form and substance reasonably acceptable to the City Solicitor.
6. At settlement on the sale of the 112 East Lincoln Highway Property as set forth in this Resolution, and from the proceeds thereof, Seller shall cause the title company which shall coordinate such settlement to collect and remit to the City all taxes due and owed to satisfy real estate taxes imposed by the City upon the Seller's Remaining Properties for Tax Year 2020 and Tax Year 2021.
7. Approval of the Modification Request is further conditioned upon settlement on the sale of the 112 East Lincoln Highway Property occurring on or prior to December 31, 2022. If 112 East Lincoln Highway Holdings LLC and DEPG Coatesville Associates, LP, do not complete the sale of the 112 East Lincoln Highway Property, this resolution shall expire and be void on December 31, 2022 at 11:59 p.m.


8. Except as expressly amended pursuant to this Resolution, DEPG Coatesville Associates, LP shall be bound by, and subject to, the terms, and conditions of Resolution No. 2020-09, Resolution No. 2019-15, and Resolution No. 2018-11.
9. DEPG Coatesville Associates, LP, through its authorized representative, shall accept, by countersigning this Resolution, or rejecting all of the conditions set forth above, within fifteen (15) days of the date hereof. This approval shall be automatically rescinded should DEPG Coatesville Associates, LP fail to accept or reject the above conditions within fifteen (15) days of the date hereof.

10. *DEPG shall utilize the proceeds from the sale of the bank building to restore the western wall of the cultural society building*

IN WITNESS WHEREOF, the Council of the City of Coatesville has adopted and enacted this Resolution this 14th day of November, 2022.

ATTEST:


Name: James Logan
Title: City Manager


Name: Linda Lavender Norris
Title: President, City Council

The above conditions are accepted by DEPG Coatesville Associates, LP and a copy of the same is hereby deemed delivered in accordance with the requirements of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 *et seq.*

DEPG COATESVILLE ASSOCIATES, LP

By: DEPG Associates, LLC,
its General Partner


By: _____
Name: James DePetris