

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF ROSELLE PARK, COUNTY OF UNION, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF THE REDEVELOPER'S AGREEMENT AND AGREEMENT SETTLING LITIGATION BETWEEN THE BOROUGH OF ROSELLE PARK, THE PLANNING BOARD OF THE BOROUGH OF ROSELLE PARK, AND ROSELLE PARK VP, LLC**

**WHEREAS**, on April 20, 2006, the Roselle Park Borough Council (hereinafter "Borough") authorized the Roselle Park Planning Board (hereinafter "Board") to conduct a preliminary investigation to determine if Block 213 Lot 1 and Block 314, Lot 1 on the official tax map of the Borough of Roselle Park, a 4.68 acre parcel commonly referred to as the Romerovski site (hereinafter "the Romerovski site") qualified as a "redevelopment area" as that term is defined in the Local Redevelopment and Housing Law at N.J.S.A. 40A:12A-3 and under the criteria set forth in N.J.S.A. 40A:12A-5; and

**WHEREAS**, on April 20, 2006, the Borough also authorized the Board to prepare a redevelopment plan for the Romerovski site ("Redevelopment Plan") if the Romerovski Site qualified as a redevelopment area; and

**WHEREAS**, on September 18, 2006, the Board officially recommended to the Borough that the Romerovski site met the statutory criteria and qualified as a redevelopment area; and

**WHEREAS**, on October 19, 2006, the Borough adopted a resolution accepting the Board's recommendation that the Romerovski site met the statutory criteria and qualified as a redevelopment area; and

**WHEREAS**, the Borough's and the Board's consultants prepared preliminary recommendations for the Redevelopment Plan and, on November 9, 2006, the Board held a public hearing regarding the Board's recommendations of the Redevelopment Plan; and

**WHEREAS**, on March 1, 2007, the Borough by ordinance adopted the Redevelopment Plan at a public meeting; and

**WHEREAS**, on January 31, 2007, Roselle Park VP, LLC filed a builder's remedy Complaint against the Borough and Board captioned Roselle Park VP, LLC v. Borough of Roselle Park and Board of the Borough of Roselle Park, docket no. UNN-L-338-07, in the Law Division of the Superior Court of New Jersey, Union County (the "Litigation"); and

**WHEREAS**, by Order dated November 5, 2007, Judge Espinosa ordered that the Borough of Roselle Park revise its zoning ordinance to comply with its fair share obligation by February 5, 2008; and

**WHEREAS**, by Order dated December 13, 2007, the Court appointed Elizabeth C. McKenzie, P.P., A.I.C.P. to be the Special Master (“Master”), and tasked the Master with conducting mandatory, confidential mediation sessions to attempt to resolve the Litigation; and

**WHEREAS**, on February 4, 2008, the Borough amended the Redevelopment Plan by ordinance; and

**WHEREAS**, on February 4, 2008, the Board adopted an amended Housing Element and Fair Share Plan; and

**WHEREAS**, on February 4, 2008, the Borough Council endorsed the amended Housing Element and Fair Share Plan.

**WHEREAS**, the Parties have engaged in a series of comprehensive, confidential mediation sessions; and

**WHEREAS**, on August 11, 2008, the Parties reached a preliminary accord on the terms to be included in the Redeveloper’s Agreement And Agreement Settling Litigation Between The Borough Of Roselle Park, The Planning Board Of The Borough Of Roselle Park, And Roselle Park VP, LLC (hereinfter “Agreement”) which, if approved by the Borough Council and Board, after notice and an opportunity for the public to be heard, would result in an amicable accord, the settlement of the pending Litigation, and approval of the Borough’s affordable housing plan; and

**WHEREAS**, on December 15, 2008, the Board adopted an Amended Housing Element and Fair Share Plan which is substantively consistent with the terms of the preliminary accord between the parties and the Agreement, and on December 18, 2008 the Borough endorsed the Amended Housing Element and Fair Share Plan; and

**WHEREAS**, on June 22, 2009, the Board held a properly-noticed public meeting addressing the substance of the Agreement, and after considering the concerns raised by the members of the public, the Board has detemined that it is in the best interest of Roselle Park to authorize the Chairman of the Planning Board to execute the Agreement and to settle the litigation between the Borough, the Planning Board and Roselle Park VP, LLC; and

**WHEREAS**, such authorization shall be contingent upon the Borough Council taking similar action.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE BOROUGH OF ROSELLE PARK AS FOLLOWS:**

1. The Chairman of the Planning Board or his designee is hereby authorized to execute the Agreement substantially in the form as attached hereto as Exhibit A, subject to such additions, deletions, modifications or amendments deemed necessary by the Chairman of the Planning Board in his discretion in consultation with counsel, which additions, deletions, modifications or amendments do not alter the substantive rights and

obligations of the parties thereto, and to take all other necessary and appropriate action to effectuate the Redevelopment Agreement.

2. Such authorization is contingent upon the Borough Council taking similar action.

3. This Resolution shall take effect immediately.

**I HEREBY CERTIFY** the foregoing to be a true copy of a Resolution adopted on June \_\_\_\_, 2009 by the Planning Board of the Borough of Roselle Park.

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Debbie Buli, Secretary  
Planning Board of the Borough of Roselle Park