

RESOLUTION NO.: 2019-105

RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION AND RECORDATION OF THE PROPOSED PERMANENT WATERLINE UTILITY MAINTENANCE EASEMENT LOCATED OVER A PORTION OF BLOCK 123, LOTS 1.01, 1.03 1.04 AND 1.05

WHEREAS, on October 29, 1997 the Borough of Mount Arlington purchased an existing potable water system servicing the Mt. Arlington Gardens apartment complex from the Mt. Arlington Service Company, a copy of the Agreement is attached hereto as **EXHIBIT A** and incorporated herein as if set forth at length. Item 7 of the Agreement sets forth that any and all easements to facilitate Borough access to the Mt. Arlington Gardens apartment complex system would be provided by Mt. Arlington Service Company, however, no specific easement documentation for the Mt. Arlington Gardens apartment complex could be located; and

WHEREAS, in 2017, the Borough of Mount Arlington completed a water main replacement project within the Mt. Arlington Gardens apartment complex. Prior to the repaving of the roadways, the pipe trenches were survey located to establish the route of the new water main and appurtenances. A ground penetrating radar was used to locate an existing water main to remain that connected the existing water tank on Block 124, Lot 1 to the housing development on the abutting property to the north. This field survey information was then used to establish that formal updated easements for the water main and related appurtenances are required over a portion of the property located in Block 123, Lots 1.01, 1.04, 1.05, located on Schmitz Terrace; and Block 123, Lot 1.03, located on Henry Court. A copy of the plan entitled "Waterline Easements, Block 123 Lots 1.01, 1.03, 1.04, 1.05 - Block 124 Lot 1", prepared by GEOD Corporation, dated October 25, 2018, revised March 25, 2019, consisting of one (1) sheet, is attached hereto as **EXHIBIT B** and incorporated herein as if set forth at length. A copy of the Schedule A: Waterline Easement Description, East Coast Mt. Arlington Apartments, Henry Court (Block 123, Lot 1.03), prepared by GEOD Corporation, March 25, 2019, is attached hereto as **EXHIBIT C** and incorporated herein as if set forth at length. A copy of Schedule B: Waterline Easement Description, East Coast Mt. Arlington Apartments, Schmitz Terrace (Block 123 Lots 1.01, 1.03, 1.04, 1.05), prepared by GEOD Corporation, dated November 7, 2018, is attached hereto as **EXHIBIT D** and incorporated herein as if set forth at length. A copy of Schedule C: Waterline Easement Description, East Coast Mt. Arlington Apartments, Existing Waterline Easement Based Upon Utility Markout (Block 123, Lots 1.01 & 1.04), prepared by GEOD Corporation, dated November 7, 2018, is attached hereto as **EXHIBIT E** and incorporated herein as if set forth at length; and

WHEREAS, these waterline utility easements are required to allow the Borough of Mt. Arlington to enter the apartment complex property to service the Borough of Mt. Arlington's water mains, water tank, fire hydrants, and those portions of the water service laterals between the water main and the service valve. The easements shall include language to allow the Borough of Mt. Arlington to enter upon and traverse the property adjacent to the easement limits in the event access is required from another angle, such as in the event of a water main break causes a sinkhole within the easement, the Borough of Mt. Arlington would need the ability to venture outside of the easement, go around the sinkhole, then return to the easement during repairs; and

WHEREAS, A Deed of Assignment of Easement recorded November 20, 1997 in the Morris County Clerk's Deed Book 84672, Page 41 conveys easement rights on Block 123, Lots 1.01, 1.03, 1.04, 1.05 and right-of-way of Schmitz Terrace from Mt Arlington Service Co. to the Borough of Mt. Arlington, a copy of which is attached hereto as **EXHIBIT F** and incorporated herein as if set forth at length. These easement rights relate to the water system within the apartment complex. The waterline utility easements as described in Schedules A, B, & C would supersede, expand and clarify these original easements; and

WHEREAS, A Utility Easement recorded December 9, 2004 in the Morris County Clerk's Deed Book 06221, Page 292 conveys easement rights for a section of water main within the apartment complex, a copy of which is attached hereto as **EXHIBIT G** and incorporated herein as if set forth at length, but does not include parcels identified through the process of the 2017 water main replacement project. This easement was created for the Borough of Mt. Arlington to maintain access to a water main that connects the Borough-owned water tank on a Borough-owned lot within the apartment complex to the abutting residential development to the north. However, the ground penetrating radar used to verify the location of this existing main found that the main was actually outside of the originally filed easement. The attached Schedule "C" describes an easement around the field-located water main. The waterline utility easements as described in Schedules A, B, & C would supersede, expand and clarify this easement; and

WHEREAS, the owners of the apartment complex, East Coast Mt Arlington Apartments, LLC, with a mailing address of c/o Morgan Properties, 160 Clubhouse Road, King of Prussia, PA 19406; is the owner of record of Block 123, Lots 1.01, 1.04, 1.05, located on Schmitz Terrace; and Block 123, Lot 1.03, located on Henry Court; and hereby warrant that they have the exclusive right and authority under the law to make the grant of easement herein upon the land described herein which is a portion of the land warranted to be owned by them; and

WHEREAS, East Coast Mt Arlington Apartments, LLC desires to convey a Permanent Waterline Utility Maintenance Easement over a portion of Block 123, Lot 1.03, located on Henry Court in the Borough of Mount Arlington, Morris County, New Jersey as shown on "Schedule A" as the Metes and Bounds description attached as "**EXHIBIT C**", a copy of which Easement is attached hereto as **EXHIBIT H** and incorporated herein as if set forth at length; and

WHEREAS, East Coast Mt Arlington Apartments, LLC desires to convey a Permanent Waterline Utility Maintenance Easement over a portion of Block 123, Lots 1.01, 1.03 (Henry Court), 1.04, 1.05, located on Schmitz Terrace in the Borough of Mount Arlington, Morris County, New Jersey as shown on "Schedule B" as the Metes and Bounds description attached as "**EXHIBIT D**", a copy of which Easement is attached hereto as **EXHIBIT I** and incorporated herein as if set forth at length; and

WHEREAS, East Coast Mt Arlington Apartments, LLC desires to convey a Permanent Waterline Utility Maintenance Easement over a portion of Block 123, Lots 1.01 and 1.04, located on Schmitz Terrace in the Borough of Mount Arlington, Morris County, New Jersey as shown on "Schedule C" as the Metes and Bounds description attached as "**EXHIBIT E**", a copy of which Easement is attached hereto as **EXHIBIT J** and incorporated herein as if set forth at length; and

WHEREAS, the Borough of Mount Arlington Borough Engineer and the Borough Attorney reviewed the above-referenced easement documents and Metes and Bounds descriptions, a copy of each are incorporated herein at length by reference; and

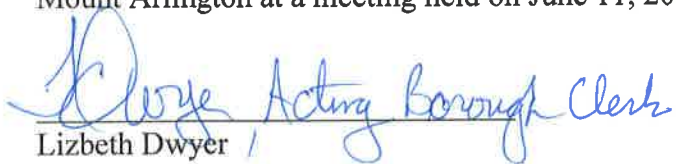
WHEREAS, in order to effectuate the granting of the easements, the proposed easement documents and Metes and Bounds description are required to be recorded in the Morris County Clerk's Office; and

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the above-referenced easement documents and Metes and Bounds description and recommends the documents be recorded by the Borough Attorney in the office of the Morris County Clerk.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT the Permanent Waterline Utility Maintenance Easements are approved and that the recordation of the easement documents shall be conducted at a date and time selected by the Borough Administrator upon approval of all documents by the Borough Attorney. The Borough Administrator

and the Borough Attorney shall be authorized and empowered to sign any and all documents required to effectuate the recordation of the documents.

This is to certify that the above is a true and correct copy of a resolution adopted by the Borough of Mount Arlington at a meeting held on June 11, 2019.

A handwritten signature in blue ink, appearing to read "Lizbeth Dwyer Acting Borough Clerk". The signature is written in a cursive style.

Lizbeth Dwyer
Acting Borough Clerk