

RESOLUTION 2021 – 84

A RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING EXECUTION OF A REDEVELOPMENT AGREEMENT FOR THE PROPERTY KNOWN AS BLOCK 61.02, LOT 23.08 (181 HOWARD BOULEVARD) ON THE TAX MAP OF THE BOROUGH

WHEREAS, The Orchards at Mt. Arlington, LLC is the owner of Block 61.02 Lot 23.08 as shown on the official Tax Map of the Borough of Mt. Arlington, Morris County, and commonly known as 181 Howard Boulevard, consisting of approximately 7.61 acres (the “Property” and sometimes also referred to as the “Redevelopment Area”); and

WHEREAS, the Property is located in an area designated by the Borough Council as being “in need of redevelopment” in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et. seq., as amended and supplemented (“Redevelopment Law”); and

WHEREAS, the Property is also subject to the “111 & 181 Howard Boulevard Redevelopment Plan”, as prepared by Jessica C. Caldwell, P.P./AICP, dated February 2, 2021 adopted by the Borough Council by way of Ordinance No. 02-2021 on March 2, 2021 in accordance with the Redevelopment Law (as may be further amended from time to time, the “Redevelopment Plan”); and

WHEREAS, the Borough desires to authorize the execution of a redevelopment agreement with The Orchards at Mt. Arlington Urban Renewal, LLC, an affiliate of The Orchards at Mt. Arlington, LLC, (the “Redeveloper”) (in the form attached hereto as Exhibit A, the “Redevelopment Agreement”), for the planning, construction and redevelopment of the Property in accordance with the Redevelopment Plan; and

WHEREAS, the Redeveloper has proposed to design, develop, finance, construct, operate and maintain a mixed-use project to be renamed “Station Square” with the addition of two new luxury apartment buildings to replace a portion of the existing shopping center and former freestanding bank building, an upgrade of the remaining shopping center façade, and the expansion of the onsite parking to support the project, along with associated amenities and site improvements (as more specifically described in Redevelopment Agreement, the “Project”); and

WHEREAS, in order to effectuate the Redevelopment Plan, the Project and the redevelopment of the Property, the Borough has determined to enter into the Redevelopment Agreement with the Redeveloper, which Redevelopment Agreement

designates Redeveloper as the “redeveloper” of the Property in accordance with the Redevelopment Law, and which specifies the respective rights and responsibilities of the parties with respect to the Project.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Mount Arlington, in the County of Morris, New Jersey, as follows:

Section 1. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

Section 2. The Redeveloper is hereby designated as the Redeveloper of the Property.

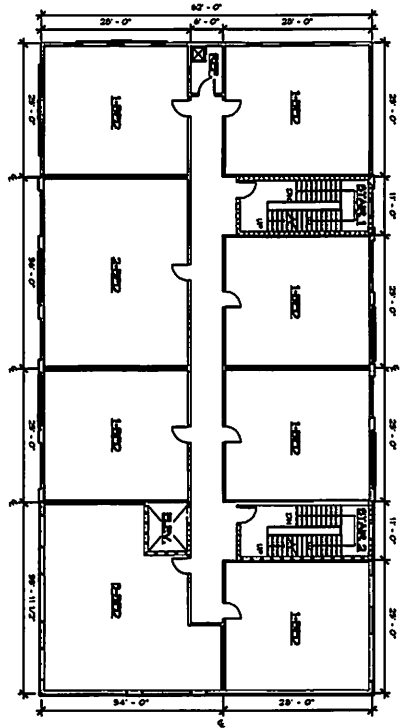
Section 3. The Mayor of the Borough is hereby authorized and directed to execute the Redevelopment Agreement, in the form attached hereto as Exhibit A, with such changes, omissions or amendments as the Mayor deems appropriate in consultation with the Borough’s general counsel, redevelopment counsel, redevelopment planner and other Borough professionals. The Clerk of the Borough is hereby authorized and directed to attest to the Mayor’s signature and affix the seal of the Borough to the Redevelopment Agreement. Upon execution and attestation of same, the Mayor is hereby authorized to deliver the Redevelopment Agreement to the other parties thereto.

Section 4. This resolution shall take effect immediately.

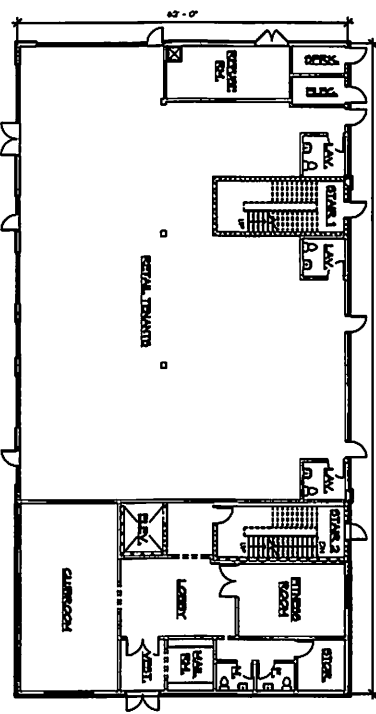
I HEREBY CERTIFY this to be a true and correct Resolution of the Mayor and Council of the Borough of Mount Arlington and adopted on July 6, 2021.


Matthew N. Bansch, Borough Clerk

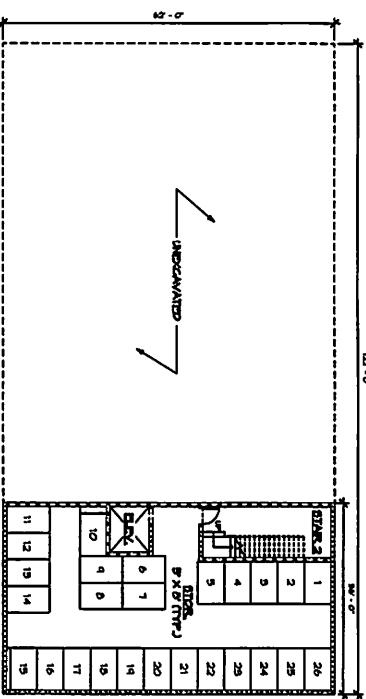
EXHIBIT A
Form of Redevelopment Agreement



3 UPPER FLOOR PLAN
SCALE: 1/8" = 1'-0"



2 FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"



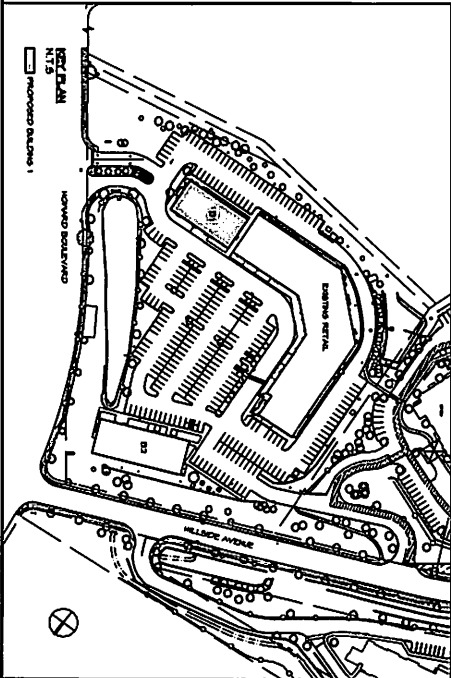
1 BASEMENT PLAN
SCALE: 1/8" = 1'-0"

MEASUREMENTS

| | |
|-----------------|-----------|
| MEASUREMENT | AREA |
| OFFICE 1 | 1,200.00 |
| OFFICE 2 | 1,200.00 |
| OFFICE 3 | 1,200.00 |
| OFFICE 4 | 1,200.00 |
| OFFICE 5 | 1,200.00 |
| OFFICE 6 | 1,200.00 |
| OFFICE 7 | 1,200.00 |
| OFFICE 8 | 1,200.00 |
| OFFICE 9 | 1,200.00 |
| OFFICE 10 | 1,200.00 |
| CONFERENCE ROOM | 1,200.00 |
| KITCHEN | 1,200.00 |
| BREAK ROOM | 1,200.00 |
| RESTROOMS | 1,200.00 |
| RECEPTION | 1,200.00 |
| HALLWAYS | 1,200.00 |
| STAIRS | 1,200.00 |
| MECHANICAL | 1,200.00 |
| UTILITY | 1,200.00 |
| PARKING | 1,200.00 |
| LANDSCAPE | 1,200.00 |
| TOTAL | 12,000.00 |

MEASUREMENTS

| | | | |
|-----------|----------------|----------------------|--------------------------|
| AREA | NO. OF OFFICES | TOTAL NO. OF OFFICES | TOTAL NO. OF SQUARE FEET |
| 12,000.00 | 10 | 10 | 120,000.00 |



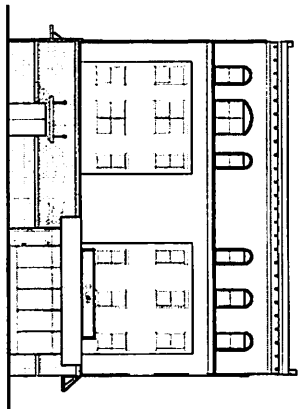
STATION SQUARE
FOR
**THE ORCHARDS AT
MT. ARLINGTON, LLC.**
181 HOWARD BOULEVARD
MOUNT ARLINGTON, NJ 07856

**SONNENFELD
AND TROCCHIA
ARCHITECTS, P.A.**
181 MOUNT ARLINGTON AVENUE
MOUNT ARLINGTON, NJ 07856
Tel: 202.946.9777
Fax: 702.240.2474
www.sonnensfeldandtrocchia.com

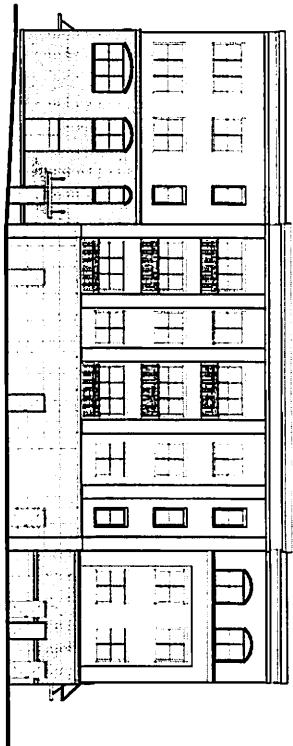
OWNER: STATION SQUARE
ARCHITECT: SONNENFELD AND TROCCHIA ARCHITECTS, P.A.
DATE: 22 APRIL 2021
SCALE: AS NOTED
DRAWN BY: CO
CHECKED BY: RYAN/CAP
SHEET: A-110



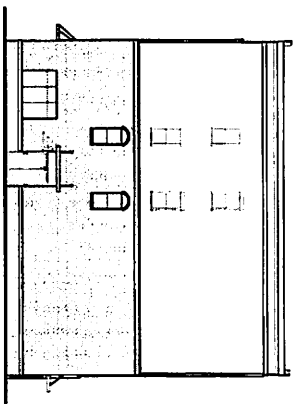
1 FRONT ELEVATION
SCALE 1/8" = 1'-0"



2 LEFT ELEVATION
SCALE 1/8" = 1'-0"



4 REAR ELEVATION
SCALE 1/8" = 1'-0"



3 RIGHT ELEVATION
SCALE 1/8" = 1'-0"

STATION SQUARE
FOR
THE ORCHARDS AT
MT. ARLINGTON, LLC.
181 HOWARD BOULEVARD
MOUNT ARLINGTON, NJ 07856

Architects
Project Management
**SONNENFELD
AND TROCCHIA
ARCHITECTS & P.A.**
50 Main Street
Hoboken, NJ 07030
Tel: 201.333.9677
Fax: 201.333.9678
www.sonnenfeldandtrocchia.com

CRENSHAW CONSULTANTS, INC.
ARCHITECTS

PROJECT: STATION SQUARE, MT. ARLINGTON, NJ

DATE: 04/22/2021

SCALE: AS NOTED

DRAWN BY: CO

CHECKED BY: RWA/CP

SHEET:

TITLE:

REVISIONS:

DATE:

BY:

DESCRIPTION:

REVISIONS:

DATE:

BY:

DESCRIPTION:

REVISIONS:

DATE:

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DESCRIPTION:

REVISIONS:

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REVISIONS:

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REVISIONS:

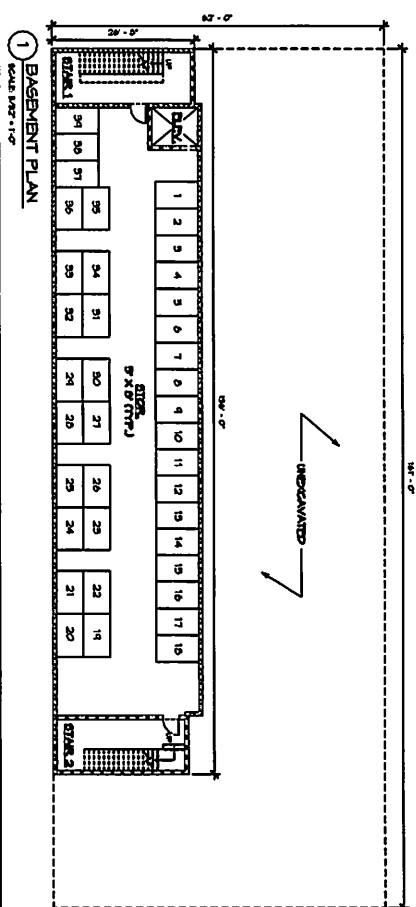
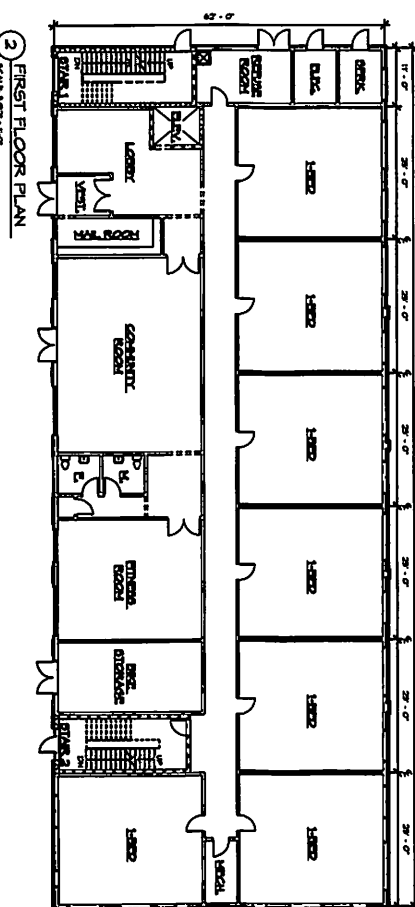
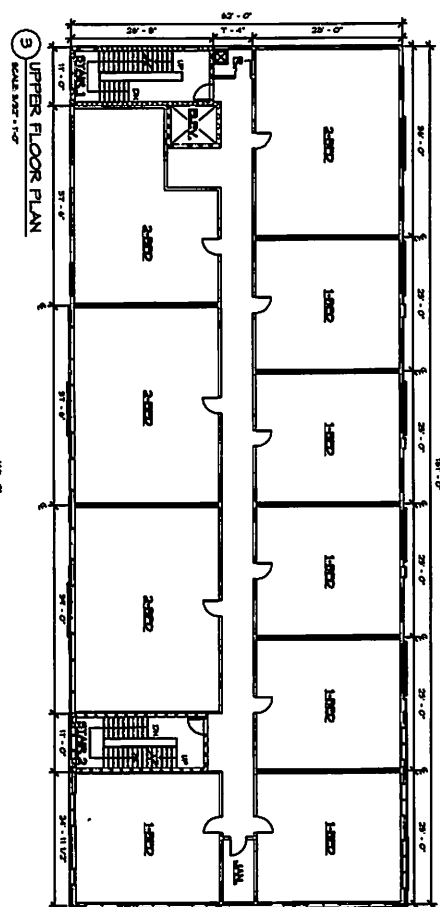
DATE:

BY:

DESCRIPTION:

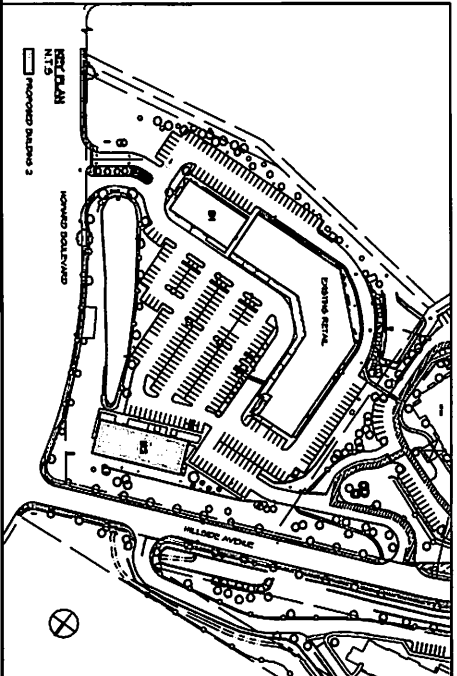
REVISIONS:

A-1.1



| BUILDING TO | | AREA | |
|-----------------|------------------|------|--|
| LABORATORY | 3,100.00 | | |
| OFFICE | 4,500.00 | | |
| CONFERENCE ROOM | 1,000.00 | | |
| RESTROOM | 500.00 | | |
| STORAGE | 1,000.00 | | |
| STAIRS | 2,000.00 | | |
| MECHANICAL | 1,000.00 | | |
| UNASSIGNED | 1,000.00 | | |
| TOTAL | 14,100.00 | | |

| UNIT | AREA | PERCENT | DATE | TOTAL NO. OF | TOTAL NO. OF |
|--------------|------------------|----------------|----------|--------------|--------------|
| 1 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 2 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 3 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 4 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 5 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 6 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 7 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 8 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 9 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 10 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 11 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 12 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 13 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 14 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 15 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 16 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 17 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 18 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 19 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 20 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 21 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 22 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 23 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 24 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 25 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 26 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 27 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 28 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 29 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| 30 | 100.00 | 100.00% | 01/01/00 | 1 | 1 |
| TOTAL | 14,100.00 | 100.00% | | 14 | 14 |



Architectural
 Planning
 Project Management

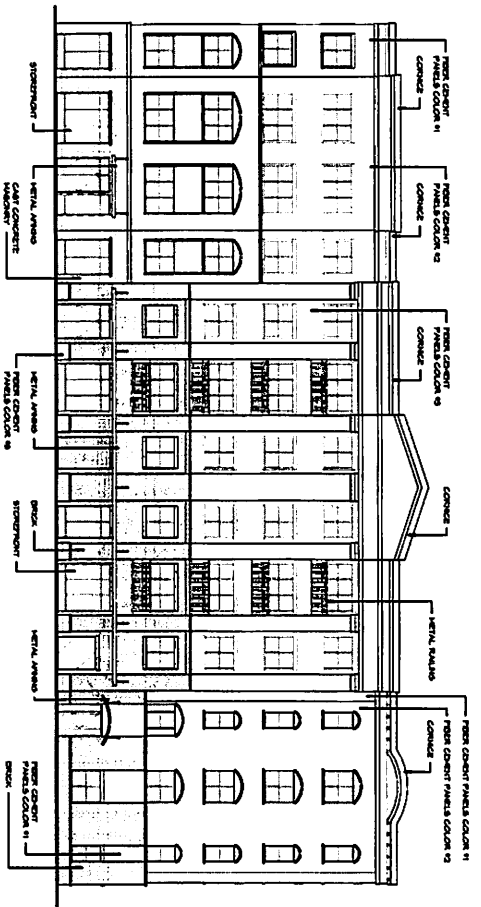
**SONNENFELD
 AND TROCENIA
 ARCHITECTS P.A.**
 50 Main Street
 Hightstown, NJ 08520
 Tel: 285.946.9177
 Fax: 285.946.9174
 www.sonnentieldandtrocenia.com

STATION SQUARE
 FOR
**THE ORCHARDS AT
 MT. ARLINGTON, LLC.**
 181 HOWARD BOULEVARD
 MOUNT ARLINGTON, NJ 07856

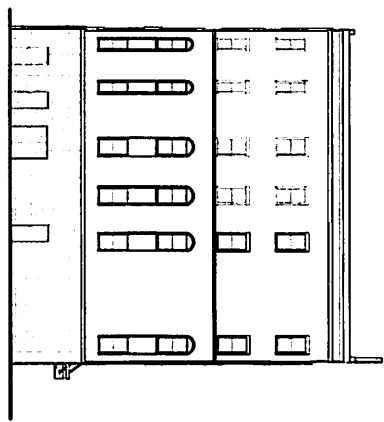
OWNER: S. SONNENFELD, LLC
 ARCHITECT: SONNENFELD AND TROCENIA, P.A.
 PROJECT NO.: 181 HOWARD
 SHEET NO.: A-2.0

DATE: 22 APRIL, 2021
 SCALE: AS NOTED
 DRAWN BY: CO
 CHECKED BY: BVA/KCF
 SHEET:

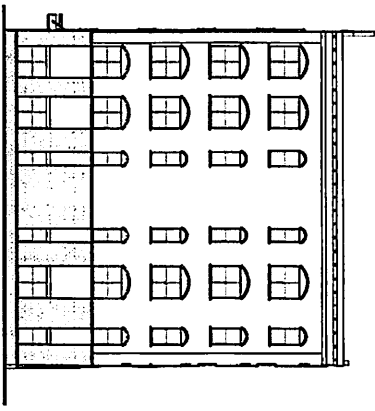
ENTER PLANNING SUBMISSION
 CONDL. NO.: 1566-2016
 DATE: 22 APRIL, 2021
 SCALE: AS NOTED
 DRAWN BY: CO
 CHECKED BY: BVA/KCF
 SHEET:



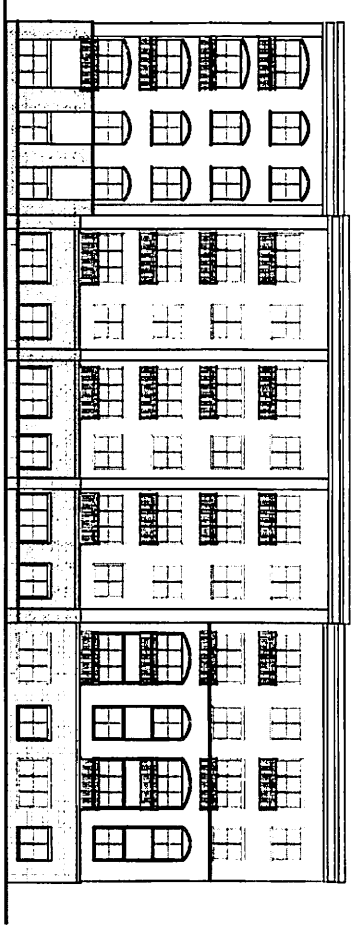
1 FRONT ELEVATION
SCALE 3/8" = 1'-0"



2 LEFT ELEVATION
SCALE 3/8" = 1'-0"



3 RIGHT ELEVATION
SCALE 3/8" = 1'-0"



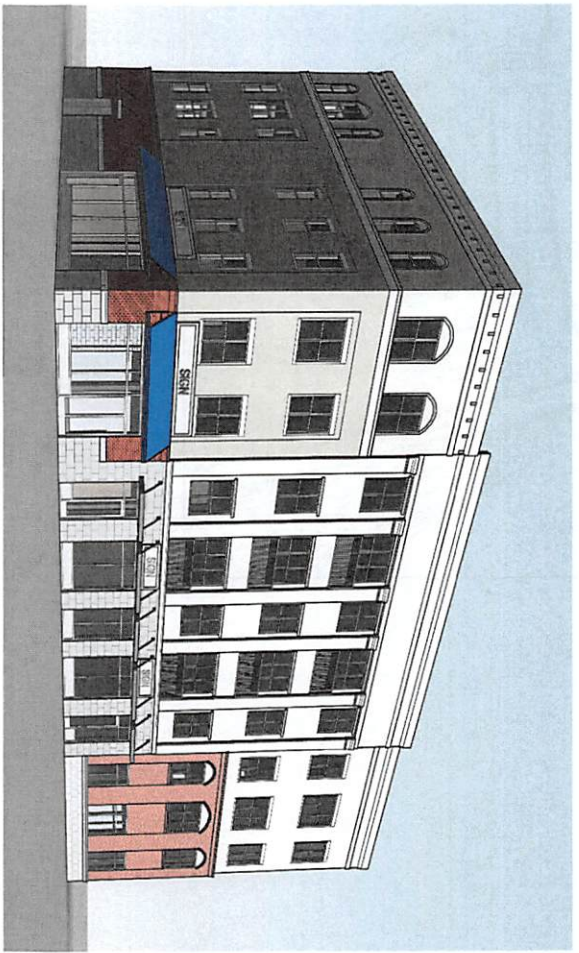
4 REAR ELEVATION
SCALE 3/8" = 1'-0"

STATION SQUARE
FOR
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MT. ARLINGTON, LLC.**
181 HOWARD BOULEVARD
MOUNT ARLINGTON, NJ 07856

Architectural
Planning
Project Management

**SONNENFELD
AND TROCCHIA
ARCHITECTS, P.A.**
53 Main Street
Hohndel, NJ 07035
Tel: 320.246.2122
Fax: 732.916.2424
www.sonnentfeldandtroccchia.com

| | |
|--|-------------------------|
| OWNER: TROCCHIA, JR., INC. | |
| ARCHITECT: SONNENFELD AND TROCCHIA, P.A. | |
| DATE: 02/10/17 | PROJECT: STATION SQUARE |
| TIME: 10:00 AM | REVISIONS: |
| BUILDING: 3 - BUILDING | DEVELOPER: |
| BTR PLAN SUBMISSION | |
| CON. NO.: 1506-2070 | DATE: 22 APRIL 2021 |
| SCALE: AS NOTED | DRAWN BY: CO |
| CHECKED BY: RWY/GP | SHEET: |
| A-2.1 | |



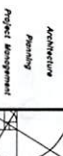
1 BUILDING 1 - 3D VIEW



2 BUILDING 2 - 3D VIEW

STATION SQUARE
 FOR
**THE ORCHARDS AT
 MT. ARLINGTON, LLC.**
 181 HOWARD BOULEVARD
 MOUNT ARLINGTON, NJ 07856

**SONNENFELD
 AND TROCCHIA
 ARCHITECTS P.C.**
 50 James Street
 Hoboken, NJ 07030
 Tel: 201.946.9777
 Fax: 201.946.7474
www.sonnendandtrochia.com



DINO S. SONNENFELD, AIA
 NJ A100007

ANDREA F. TROCCHIA, AIA
 NJ A100077

NO. DATE DESCRIPTION
 REVISIONS

TITLE: BUILDING 1 & 2 - 3D VIEWS

SITE PLAN SUBMISSION

COMM. NO.: 1966-2016

DATE: 22 APRIL 2021

SCALE: AS NOTED

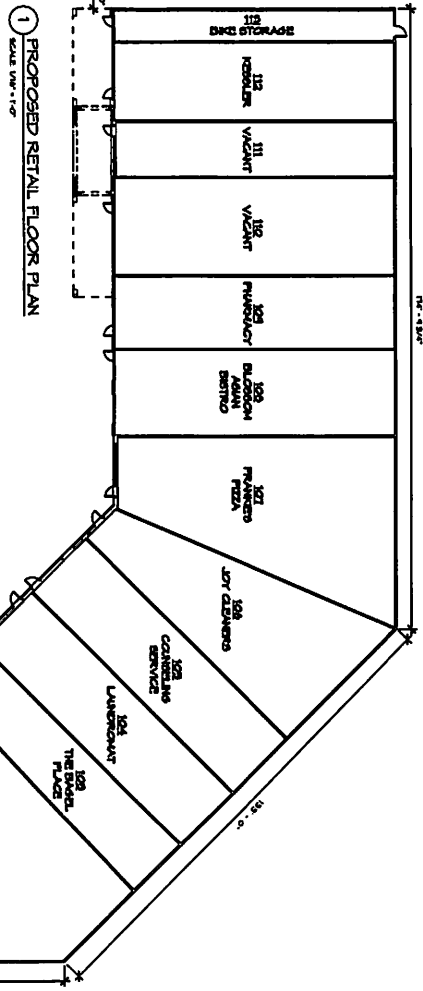
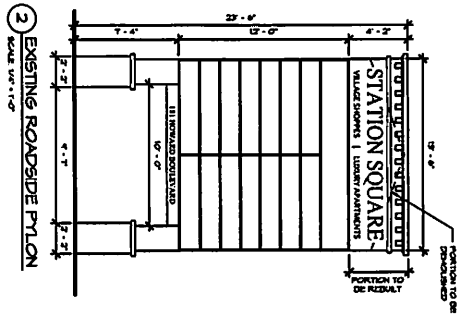
DRAWN BY: CO

CHECKED BY: RW/CF

SHEET:

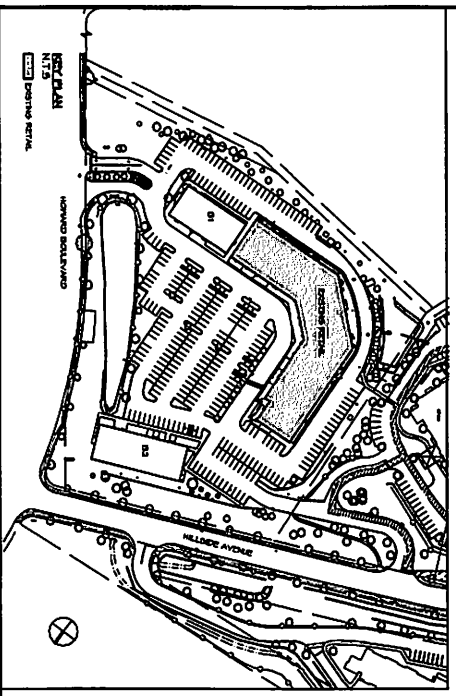
A-3.0

| | |
|----------|--------------------|
| DATE | DESCRIPTION |
| 10/20/10 | ISSUED FOR PERMITS |
| 08/20/10 | ISSUED FOR PERMITS |
| 05/20/10 | ISSUED FOR PERMITS |



2 EXISTING ROADSIDE PYLON
SCALE: 1/8" = 1'-0"

1 PROPOSED RETAIL FLOOR PLAN
SCALE: 1/8" = 1'-0"



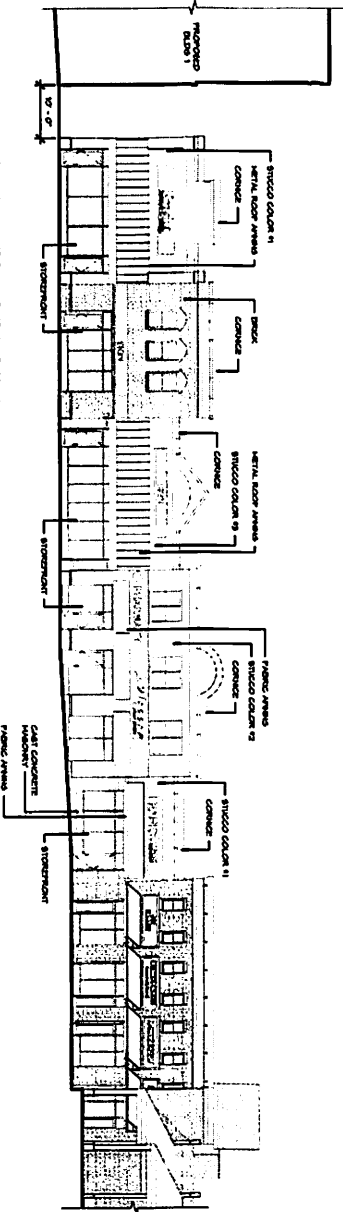
| | | | | | |
|---|--|--|--|--|--|
| <p>Architects SONNENFELD AND TROCCHIA ARCHITECTS, P.A. 53 Main Street Herndon, VA 07732 Tel: 703.946.7272 Fax: 703.946.5474 www.sonnentfeldandtrocchia.com</p> | | <p>Station Square FOR THE ORCHARDS AT MT. ARLINGTON, LLC. 181 HOWARD BOULEVARD MOUNT ARLINGTON, NJ 07856</p> | | <p>Contractor ORCHARD & COMPANY, LLC 50 HILLSIDE MOUNT ARLINGTON, NJ 07856</p> | |
| <p>DATE: 22 APRIL 2011 SCALE: AS NOTED DRAWN BY: CO CHECKED BY: RVAL/C/P SHEET: A-4.0</p> | | <p>DATE: 1906/2010 CONVL. NO.: DATE: 22 APRIL 2011 SCALE: AS NOTED DRAWN BY: CO CHECKED BY: RVAL/C/P SHEET: A-4.0</p> | | <p>DATE: 1906/2010 CONVL. NO.: DATE: 22 APRIL 2011 SCALE: AS NOTED DRAWN BY: CO CHECKED BY: RVAL/C/P SHEET: A-4.0</p> | |

STATION SQUARE SIGNAGE

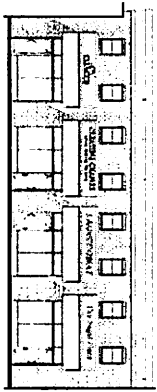
| RETAIL NO. | EXISTING SIGN AREA, SF. | PROPOSED SIGN AREA, SF. | LETTER STYLE | LETTER HEIGHT, IN. | LIGHTING | COLOR | CONSTRUCTION & MATERIALS | HEIGHT OF SIGN ABOVE GRADE | LOCATION |
|------------|-------------------------|-------------------------|---------------------|--------------------|----------|--------------|--------------------------|----------------------------|----------|
| 001 | 40 SF | 40 SF | ARIAL | 30" | INTERNAL | GREEN | GAINING LETTERS | 40" | WALL |
| 002 | 21 SF | 21 SF | ARIAL | 14" | INTERNAL | RED | GAINING LETTERS | 14" | WALL |
| 003 | 30 SF | 30 SF | ARIAL BLACK | 17" | INTERNAL | PURPLE | GAINING LETTERS | 17" | WALL |
| 004 | 99 SF | 11 SF | CALIBRI | 17" | INTERNAL | PINK / BROWN | GAINING LETTERS | 17" | WALL |
| 005 | 88 SF | 14 SF | ARIAL | 14" | INTERNAL | RED | GAINING LETTERS | 14" | WALL |
| 006 | 30 SF | 30 SF | CONDENSED / BOLD | 17" | INTERNAL | BLUE | GAINING LETTERS | 17" | WALL |
| 007 | 13 SF | 13 SF | ARIAL BLACK / ARIAL | 14" | INTERNAL | RED | GAINING LETTERS | 14" | WALL |
| 008 | 22 SF | 22 SF | ARIAL BLACK / ARIAL | 17" | INTERNAL | RED | GAINING LETTERS | 17" | WALL |
| 009 | 84 SF | 84 SF | ARIAL | 14" | INTERNAL | RED | GAINING LETTERS | 14" | WALL |
| 010 | 21 SF | 21 SF | ARIAL | 14" | INTERNAL | RED | GAINING LETTERS | 14" | WALL |
| 011 | 0 SF | 0 SF | - | 14" | INTERNAL | - | GAINING LETTERS | 14" | WALL |
| 012 | 23 SF | 23 SF | - | 27" | INTERNAL | GREEN | GAINING LETTERS | 14" | WALL |

| EXISTING SIGNAGE AREA | EXISTING SIGNAGE | PROPOSED SIGNAGE | PROPOSED SIGNAGE |
|-----------------------|------------------|------------------|------------------|
| 18 | 40 SF | 40 SF | 40 SF |
| 19 | 21 SF | 21 SF | 21 SF |
| 20 | 30 SF | 30 SF | 30 SF |
| 21 | 99 SF | 11 SF | 11 SF |
| 22 | 88 SF | 14 SF | 14 SF |
| 23 | 30 SF | 30 SF | 30 SF |
| 24 | 13 SF | 13 SF | 13 SF |
| 25 | 22 SF | 22 SF | 22 SF |
| 26 | 84 SF | 84 SF | 84 SF |
| 27 | 21 SF | 21 SF | 21 SF |
| 28 | 0 SF | 0 SF | 0 SF |
| 29 | 23 SF | 23 SF | 23 SF |

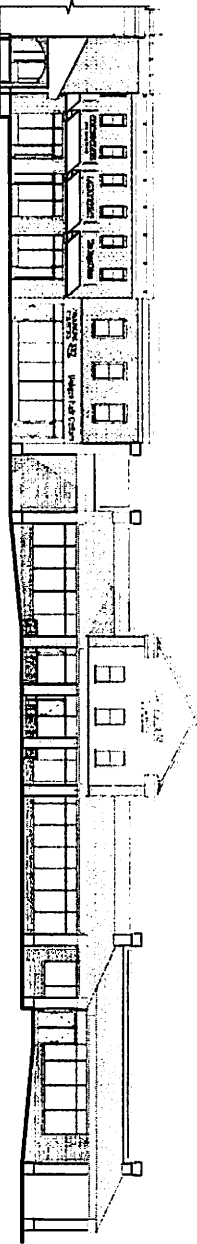
1 EXISTING RETAIL ELEVATION 1
SCALE 3/8" = 1'-0"



2 EXISTING RETAIL ELEVATION 2
SCALE 3/8" = 1'-0"



3 EXISTING RETAIL ELEVATION 3
SCALE 3/8" = 1'-0"



STATION SQUARE
FOR
**THE ORCHARDS AT
MT. ARLINGTON, LLC.**
181 HOWARD BOULEVARD
MOUNT ARLINGTON, NJ 07856

www.sonnemfeldandtrocchia.com
PA 122.548.9177
53 Main Street
Bridgewater, NJ 07003

**SONNENFELD
AND TROCCHIA
ARCHITECTS P.A.**
53 Main Street
Bridgewater, NJ 07003

Project Manager
**SONNENFELD
AND TROCCHIA
ARCHITECTS P.A.**
53 Main Street
Bridgewater, NJ 07003

ARCHITECT
BY
**SONNENFELD
AND TROCCHIA
ARCHITECTS P.A.**

DATE: 22 APRIL 2021
SCALE: AS NOTED
DRAWN BY: CO
CHECKED BY: BWA/CP
SHEET: **A-4.1**

A-5.0

SHEET:
CHECKED BY: RMV/CP
DRAWN BY: CO
SCALE: AS NOTED
DATE: 22 APRIL, 2021
COMM. NO.: 1966-2019

SITE PLAN SUBMISSION
SITE - 3D VIEW
TITLE:
PROVISIONS

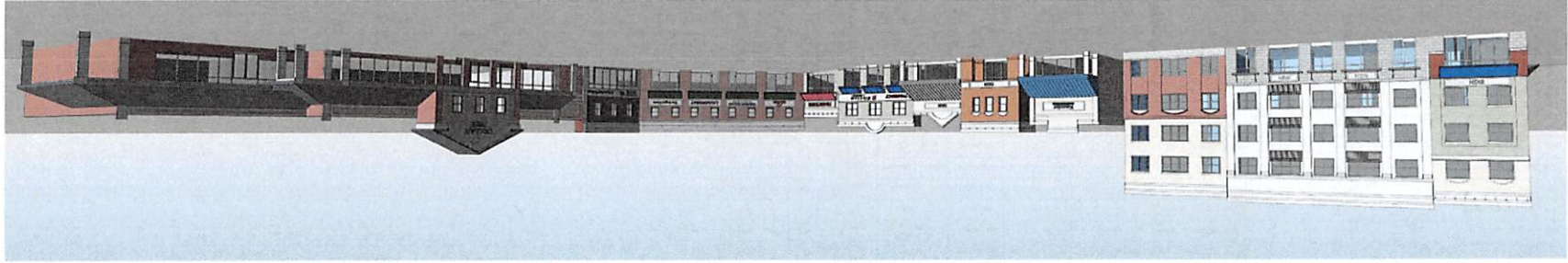
| NO. | DATE | DESCRIPTION |
|-----|------|-------------|
| | | |
| | | |
| | | |

ORIG. S. SONNENFELD, A.A.
NO. A10817
MONT. T. TROCENIA, A.A.
NO. A10887

STATION SQUARE
FOR
THE ORCHARDS AT
MT. ARLINGTON, LLC,
181 HOWARD BOULEVARD
MOUNT ARLINGTON, NJ 07856

SONNENFELD
ARCHITECTS, P.A.
51 Main Street
Islandia, NY 07155
Tel: 212-916-7777
Fax: 212-918-2171
www.sonnentfeldarchitects.com

Architecture
Planning
Project Management



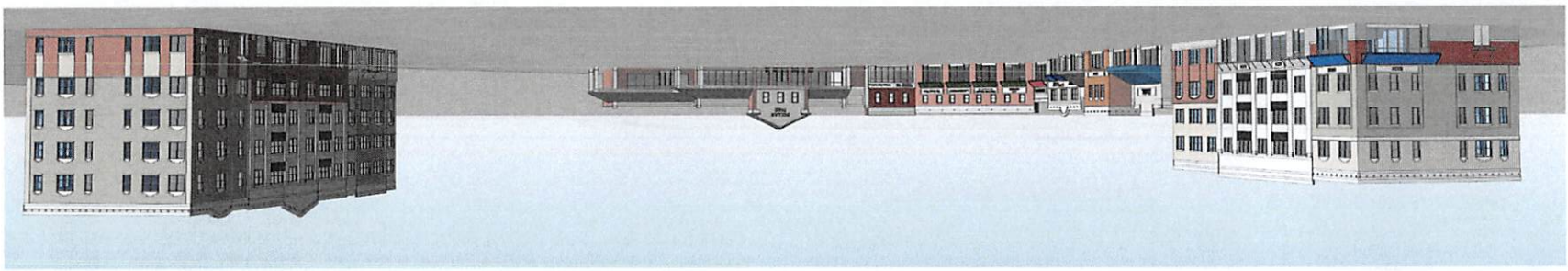
3D VIEW 4



3D VIEW 3



3D VIEW 2



3D VIEW 1

This **REDEVELOPMENT AGREEMENT** ("Redevelopment Agreement" or "this Agreement"), dated as of [_____] ("Effective Date"), by and between the **BOROUGH OF MOUNT ARLINGTON, NEW JERSEY**, a municipal corporation of the State of New Jersey (the "State"), with offices at 419 Howard Boulevard, Mount Arlington, New Jersey 07856 (the "Borough"), and **THE ORCHARDS AT MT. ARLINGTON URBAN RENEWAL, LLC** with offices located at c/o Florham Realty Management, 1075 Route 34, Suite G, Aberdeen, New Jersey 07747 (the "Redeveloper"). The Borough and the Redeveloper are sometimes hereinafter referred to jointly as the "Parties".

WITNESSETH

WHEREAS, an affiliate of the Redeveloper is the owner of Block 61.02 Lot 23.08 as shown on the official Tax Map of the Borough of Mt. Arlington, Morris County, and commonly known as 181 Howard Boulevard, consisting of approximately 7.61 acres (the "Property" and sometimes also referred to as the "Redevelopment Area"); and

WHEREAS, the Property is located in an area designated by the Borough Council as being "in need of redevelopment" in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et. seq., as amended and supplemented ("Redevelopment Law"); and

WHEREAS, the Property is also subject to the "111 & 181 Howard Boulevard Redevelopment Plan", as prepared by Jessica C. Caldwell, P.P./AICP, dated February 2, 2021 adopted by the Borough Council by way of Ordinance No. 02-2021 on March 2, 2021 in accordance with the Redevelopment Law (as may be further amended from time to time, the "Redevelopment Plan"); and

WHEREAS, on [_____], the Borough Council adopted a resolution designating the Redeveloper as redeveloper for the redevelopment of the Property and authorizing the execution of this Agreement; and

WHEREAS, Redeveloper desires to redevelop the Property in accordance with the Redevelopment Plan; and

WHEREAS, the Borough desires that the Property be redeveloped by Redeveloper in accordance with the Redevelopment Plan and this Redevelopment Agreement; and

WHEREAS, pursuant to the Redevelopment Law, the Parties desire to enter into this Agreement to set forth the terms and conditions pursuant to which the Property is to be redeveloped.

NOW, THEREFORE, for and in consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the parties hereto, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATIONS

SECTION 1.1. Definitions. Except as expressly provided herein to the contrary, all capitalized terms used in this Redevelopment Agreement and its exhibits shall have the following meanings:

(a) "Affiliate" means with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

(b) "Applicable Laws" means all federal, State and local laws, ordinances, approvals, rules, regulations and requirements applicable thereto including, but not limited to, the Redevelopment Law, the MLUL, applicable COAH regulations, UHAC, relevant construction codes including construction codes governing access for people with disabilities, and such other applicable zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations promulgated thereunder, and all applicable Environmental Laws and applicable federal and State labor standards.

(c) "Affordable Housing Units" is defined in Section 2.2 hereof.

(d) "Bond" is defined in Section 3.2(c) hereof.

(e) "Borough" shall have the meaning given to it in the recitals. For the purposes of this Agreement, the Borough Council of the Borough of Mount Arlington is the designated Redevelopment Entity for the Redevelopment Area pursuant to N.J.S.A. 40A: 12A-3.

(f) "Borough Code" means the Ordinances and Regulations of the Borough as amended from time to time.

(g) "Borough Default" is defined in Section 7.2 hereof.

(h) "Borough Indemnified Parties" means the Borough and its officers, agents, employees, contractors, and consultants.

(i) "Building 1" is defined in Section 2.2 hereof.

(j) "Building 2" is defined in Section 2.2 hereof.

(k) "Certificate of Completion and Compliance" means a certificate issued by the Borough in accordance with Section 2.7 of this Redevelopment Agreement.

(l) "Certificate of Occupancy" means a document, whether temporary or permanent, issued by the Borough authorizing occupancy of a building, in whole or in part, pursuant to N.J.S.A. 52:27D-133.

(m) "COAH" means the Council on Affordable Housing of the State established by the Fair Housing Act, as the same may be amended from time to time.

(n) "Commencement of Construction" means the date upon which construction force and machinery are mobilized for the construction of the Project or any building within the Project but shall not include demolition.

(o) "Current Members" means The Orchards at Mt. Arlington LLC, The Orchards at Mt. Arlington Urban Renewal LLC, or James G. Yacenda.

(p) "Deed Restriction Period" is defined in Section 5.2 hereof.

(q) "Declaration" is defined in Section 8.5 hereof.

(r) "Default" is defined in Section 7.2 hereof.

(s) "Default Notice" is defined in Section 7.3 hereof.

(t) "Development Approvals" means final and non-appealable approval for all applicable governing agencies of subdivision and site plans for the Project as submitted by the Redeveloper to the Land Use Board.

(u) "Effective Date" means the date of this Redevelopment Agreement, which shall be entered on the first page hereof.

(v) "Environmental Laws" means any present or future applicable federal, State or local law, rule, regulation, order, directive, judgment, arbitration award, settlement or agreement dealing with environmental protection and/or human health and safety.

- (w) "Exemption Law" means the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq.
- (x) "Event of Default" is defined in Section 7.3 hereof.
- (y) "Fair Housing Act" means the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.
- (z) "Foreclosure" is defined in Section 7.7(d) hereof.
- (aa) "Governmental Approvals" means all necessary reviews, consents, permits, licenses, leases, easements or grants or other approvals of any kind, including, but not limited to, Development Approvals, agreements for utility relocation and service legally required by or from Governmental Body, each of which must be final and non-appealable, in order to carry out the Project.
- (bb) "Governmental Body" means any federal, State, county or local agency, department, commission, authority, court, or tribunal and any successor thereto, exercising executive, legislative, judicial, or administrative functions of or pertaining to government, and any public utility, including, without limitation, the Borough and the State of New Jersey or any other quasi-governmental agency having jurisdiction of the subject matter.
- (cc) "Holder" is defined in Section 7.7 hereof.
- (dd) "Immediate Family Member" means spouse, child or grandchild of Redeveloper.
- (ee) "Infrastructure Improvements" is defined in Section 3.2(a) hereof.
- (ff) "Institutional Financing " means loans from banks, insurance companies, pension funds and other institutional lenders obtained by Redeveloper to fund the Project costs.
- (gg) "Land Use Board" means the Land Use Board of the Borough of Mount Arlington.
- (hh) "Legal Requirements" means all laws, statutes, codes, ordinances, orders, regulations and requirements of any Governmental Body, now or hereafter in effect, and, in each case, as amended from time to time.
- (ii) " MLUL " means the Municipal Land Use Law, codified at N.J.S.A. 40:55D-1 et seq.
- (jj) "NJDEP" means the New Jersey Department of Environmental Protection.
- (kk) "Parties" shall have the meaning given to it in the recitals.
- (ll) "Permitted Transfers" is defined in Section 8.4(c) hereof.

(mm) "Person" means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company or corporation, trust, unincorporated association, institution, public or Governmental Body, or any other entity.

(nn) "Project" is defined in Section 2.2 hereof.

(oo) "Project Improvements" means all buildings, structures, improvements, site preparation work and amenities necessary for the implementation and completion of the Project.

(pp) "Project Schedule" is as set forth in Exhibit B.

(qq) "Property" shall have the meaning given to it in the recitals.

(rr) "Redeveloper" shall have the meaning given to it in the recitals.

(ss) "Redeveloper Default" is defined in Section 7.1 hereof.

(tt) "Redevelopment Agreement" shall have the meaning given to it in the recitals.

(uu) "Redevelopment Area" shall have the meaning given to it in the recitals.

(vv) "Redevelopment Law" shall have the meaning given to it in the recitals.

(ww) "Redevelopment Plan" shall have the meaning given to it in the recitals.

(xx) "Reimbursable Borough Costs" is defined in Section 5.1 hereof.

(yy) "State" shall have the meaning given to it in the recitals.

(zz) "this Agreement" shall have the meaning given to it in the recitals.

(aaa) "Transfer" is defined in Section 8.4(b) hereof.

(bbb) "Uncontrollable Circumstance" is defined in Section 7.4 hereof.

(ccc) "UHAC" means the Uniform Housing Affordability Controls, N.J.A.C. 5:870-26.1 et seq., as same may be amended, or any successor laws or regulations.

(ddd) "Urban Renewal Entity" shall have the meaning ascribed to such term in the Exemption Law.

(eee) "Zoning and Planning Documents" means, collectively, the Redevelopment Plan and the Conceptual Site Plan, as each may be duly amended from time to time.

SECTION 1.2. Interpretation and Construction. In this Redevelopment Agreement, unless the context otherwise requires:

(a) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this Redevelopment Agreement, refer to this Redevelopment Agreement, and the

term "hereafter" means after, and the term "heretofore" means before the date of delivery of this Redevelopment Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnership (including limited partnerships), trusts, corporations, limited liability companies and other legal entities, including public or governmental bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Redevelopment Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Redevelopment Agreement, nor shall they affect its meaning, construction or effect.

(e) Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any Person or Party hereunder shall not be unreasonably withheld, conditioned, or delayed.

SECTION 1.3. Term. The term of the Redevelopment Agreement shall, unless otherwise extended in accordance with the terms of the Redevelopment Agreement or unless terminated sooner in accordance with the terms of this Redevelopment Agreement, be the earlier of (i) the period of time from the date of Execution of this Redevelopment Agreement until twenty (20) years thereafter or (ii) the issuance of a Certificate of Completion.

ARTICLE 2

IMPLEMENTATION OF PROJECT

SECTION 2.1. Exclusive Redeveloper. The Redeveloper is designated as the exclusive redeveloper of the Property. Upon prior written consent of the Borough, which said consent shall not be unreasonably withheld, the Redeveloper may assign or transfer its rights and obligations under this Agreement to the Redeveloper.

(a) The anticipated ownership structure of the Project is three separate units having a condominium form of ownership, which respectively, may consist of: 1) the 34,694 square feet of retail/commercial space that will remain in the existing retail building; 2) Building 1 (as defined below); and 3) Building 2 (as defined below). The common areas will be utilized for parking, stormwater detention facilities, ingress and egress, storage and other related infrastructure. The

project amenities, including the fitness rooms, community lounges, bike storage rooms and tenant storage will be considered limited common elements, which shall be used exclusively by the residential tenants. Each individual condominium unit entity will initially consist of the principals of present ownership. In the event any of the individual condominium units are transferred to another entity, either at the time of construction or upon the completion of construction, the principals of the purchasing entity shall be approved by the Borough prior to the transfer. The Redeveloper reserves the right to modify the condominium unit mix but shall not disturb the number of units or square footage of retail/commercial area without approval as set forth herein.

SECTION 2.2. The Project. The Project is a mixed-use project to be renamed "Station Square" with the addition of two new luxury apartment buildings to replace a portion of the existing shopping center and former freestanding bank building, an upgrade of the remaining shopping center façade, and the expansion of the onsite parking to support the project along with landscaping, signage and other enhancements. Specifically, the Redeveloper proposes the removal of the end of the east wing of the existing vacant retail building and the construction of a 4-story, mixed-use building ("Building 1"). Building 1 will contain: (1) 4,640 square feet of new retail/commercial space, (2) the entrance, lobby, common space, fitness rooms, community lounges, bike storage rooms and tenant storage for the residential units, (3) 17 market-rate rental apartments, including 16 one bedroom units and 1 two bedroom unit, and (4) 7 rental residential units affordable to very low, low and/or moderate income households that qualify as such, consisting of 2 one-bedroom units, 2 two-bedroom units, and 3 three-bedroom units (the "Affordable Housing Units"). The Redeveloper proposes the demolition of the existing freestanding former bank building and the construction of a 5-story, multi-family residential building ("Building 2"). Building 2 will contain: (1) the entrance, lobby, common space, fitness rooms, community lounges, bike storage rooms and tenant storage for the residential units, (2) 43 market-rate rental apartments, including 31 one bedroom units and 12 two bedroom units, and (3) 4 two-bedroom Affordable Housing Units. An additional 79 off-street parking spaces will be added to the Property for a total of 277 parking spaces. The 34,694 square feet of retail/commercial space will remain in the existing retail building. The shopping center parapet facades shall be four sided to limit views of rooftop equipment and sides of parapets. The size and design of the parapet facades shall be determined by the Land Use Board during site plan review. The façade above the existing Dollar General shall be improved to have a two-story profile as per the Redevelopment Plan. The colors of the buildings shall

utilize historic color palettes such as Sherwin Williams' preservation Palette or Benjamin Moore Historic Color Collection. Stone shall be integrated into the façade treatments in addition to the brick. The Project shall also include outdoor amenity areas, site improvements, signage, utilities and Infrastructure Improvements, all in accordance with the Redevelopment Plan, and any and all approvals granted by any and all other governmental agencies exercising jurisdiction over the Property. The Project is depicted on the attached Exhibit A.

SECTION 2.3. Governmental Approvals.

(a) The Redeveloper agrees to obtain all applicable Governmental Approvals for the Project within twelve (12) months from the adoption of a resolution of approval of any site plan and/or subdivision application subject to relief resulting from the occurrence of Uncontrollable Circumstances, as set forth in § 7.4 of this Agreement and/or extensions granted by the Borough and/or Land Use Board, as applicable. If the Redeveloper is using diligent efforts and is unable to obtain all applicable Government approvals for the project within the twelve (12) month period, it shall be entitled to one (1) automatic extension of six (6) months to obtain said approvals. Any additional extensions shall be subject to the approval of the Borough and the Land Use Board, as applicable, which approval shall not be unreasonably withheld. The Borough agrees to assist the Redeveloper in obtaining the governmental approvals for the Project, including providing all applicable information in possession of the Borough.

(b) The Borough agrees to fully cooperate, to the extent that such cooperation is consistent with the terms and intent of the Redevelopment Plan, with the Redeveloper in obtaining the Governmental Approvals.

(c) The Redeveloper's failure, inability or refusal to obtain any Governmental approvals shall constitute a breach of the Agreement and shall permit the Borough to exercise its remedies for default as set forth in Article 7.

SECTION 2.4. Governmental Approval Fees. The Redeveloper shall pay all the Borough permit, application, escrow and approval fees and all other fees associated with any other requisite Governmental approvals. In addition, the Redeveloper shall pay any application fees for Governmental Approvals otherwise payable by the Borough to any required Governmental Bodies in connection with the Project or application fees for which the Borough is required to reimburse other Governmental Bodies.

SECTION 2.5. Project Construction. All construction shall be performed strictly in accordance with all applicable statutes, ordinances, codes, regulations and restrictions. The Project shall be constructed wholly in accordance with all permits and approvals. The final construction plans must be submitted to the Borough's Construction Code Official which will provide for submission for demolition and/or construction of each building and façade renovation to be constructed by the redeveloper and must be on file and approved before construction of the project commences by the Redeveloper. The Borough represents that its Construction Code Official shall review the construction plans in a timely manner and shall notify the Redeveloper promptly in the event there is a deficiency in the construction plans submitted. The Parties acknowledge that it is critical that the existing businesses remain accessible to the public, open, and in operation during construction. Accordingly, Redeveloper shall maintain public access to the existing businesses throughout the construction of the Project.

SECTION 2.6. Project Schedule.

(a) Redeveloper shall commence and diligently pursue the completion of the Project in accordance with the Project Schedule.

(b) If Redeveloper fails to meet a deadline set forth in the Project Schedule, Redeveloper shall promptly provide notice to the Borough stating the reason for the failure to complete the applicable task and shall propose a new date for the Borough's consideration. Compliance with the preceding sentence shall not be deemed a cure of any default by Redeveloper resulting from its failure to meet a deadline.

SECTION 2.7. Certificate of Completion and Compliance. Upon completion of the Project, the Redeveloper shall provide a certificate from an authorized representative of the Redeveloper stating that: (a) construction and redevelopment of the Project has been substantially completed in accordance with the final site plan and all labor, services, materials and supplies used in such construction and installation have been paid for or a bond or surety has been established in an amount sufficient to cover all outstanding claims; (b) all other facilities necessary in connection with the Project have been constructed or improved in accordance with the final site plan and all costs and expenses incurred in connection therewith have been paid free of any construction liens or a bond or surety has been established in an amount sufficient to cover all outstanding claims; (c) all improvements, and all equipment and components thereof, which are necessary for the full operation of the Project have been installed to the Redeveloper's satisfaction, and as so installed are suitable and sufficient for the efficient operation of the Project or a phase of the Project for its intended purposes; (d) a Certificate of Occupancy, if required, and any other permissions required, if any, of governmental authorities or agencies having jurisdiction over the Project, for the occupancy and use of all portions of the Project for the

purposes contemplated by this Redevelopment Agreement and the Redevelopment Plan, have been obtained; and (e) the Project is complete and ready for use as intended and approved, upon which time the Redeveloper shall be entitled to receive a Certificate of Completion and Compliance from the Borough. If the Borough determines that Redeveloper has not satisfied (a) through (e) of the preceding sentence, or is in violation of this Agreement, the Borough shall, within ten (10) days of receipt of Redeveloper's certification, provide Redeveloper with a written statement, specifying in reasonable detail the reasons the Borough refused or failed to furnish a Certificate of Completion, and describing the measures or acts reasonably necessary, in the opinion of the Borough and consistent with this Redevelopment Agreement, that the Redeveloper must take or perform in order to obtain such Certificate of Completion. Upon Redeveloper's completion of the actions deemed reasonably necessary by the Borough, it shall forthwith issue the Certificate of Completion. The Certificate of Completion and Compliance shall constitute a recordable conclusive determination of the satisfaction and termination of the agreements and covenants in this Redevelopment Agreement and in the Redevelopment Plan with respect to the Redeveloper's obligation to construct the Project in accordance herewith. Upon issuance of the Certificate of Completion and Compliance, the conditions determined to exist at the time the Property was determined to be an area in need of redevelopment shall be deemed to no longer exist and the land and improvements within the Property shall no longer be subject to eminent domain as a result of those determinations.

ARTICLE 3

EXISTENCE OF UTILITIES; INFRASTRUCTURE

SECTION 3.1. Utilities.

(a) The Redeveloper acknowledges that local public utility providers may have certain rights with respect to the Property and may own certain facilities located therein. The Redeveloper agrees that it is its sole responsibility, at its sole cost and expense, to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of these utilities and improvements and easements therefore, in order to complete the Project as provided by this Redevelopment Agreement, provided that the Borough shall provide any appropriate letter of support to accomplish such relocation, consistent with the provisions of N.J.S.A. 40A:12A-10. The Redeveloper shall consult local public utility providers with respect to all Project preparation and construction, and shall take all precautions to prevent personal injury, property damage and other liabilities related to utilities above, at or under the Property, including, but not limited to, assuring uninterrupted utility service to all properties during construction.

SECTION 3.2. Infrastructure Improvements.

(a) Redeveloper acknowledges that certain on- and off-site infrastructure improvements may be necessary in connection with the implementation of the Project. In accordance with the Redevelopment Plan, Redeveloper, at Redeveloper's sole cost and expense, shall provide all necessary engineering studies for, and construct and install all on- and off-site municipal infrastructure and capacity enhancements or upgrades required in connection with the provision of water, sanitary sewer, and stormwater sewer service to the Project, in addition to all required tie-in or connection fees. Redeveloper shall also be responsible for providing, at Redeveloper's sole cost and expense, all sidewalks, curbs, street trees, pedestrian and bicycle access and circulation, electric vehicle charging stations, and landscaping all in accordance with the Redevelopment Plan (the improvements outlined in this paragraph (a) collectively, the "Infrastructure Improvements").

(b) The Redeveloper shall design the Infrastructure Improvements in accordance with the Redevelopment Plan and typical and ordinary standards required by the governmental body with jurisdiction and shall construct the Infrastructure Improvements in a good and workmanlike manner and in accordance with all applicable Legal Requirements. The Borough Engineer shall inspect, in phases, all Infrastructure Improvements as same are completed for compliance with the preceding sentence and, if found compliant, shall so certify to the Borough.

(c) Redeveloper shall post performance and maintenance guarantees and review escrows in accordance with the provisions of N.J.S.A. 40:55D-53 et seq. of the MLUL and all Applicable Laws (collectively, the "Bond"), in the following manner:

(i) Prior to the Commencement of Construction, a performance bond or irrevocable letter of credit (or such other form of guarantee allowed in accordance with the MLUL) for those Infrastructure Improvements for which a performance guarantee may be required pursuant to the MLUL and as may be required pursuant to the approved site plan and Planning Board resolution, in an amount to be determined by the Borough Engineer pursuant to the MLUL.

(ii) A maintenance guarantee for those Infrastructure Improvements required to be bonded in accordance with the MLUL, in the form of a surety bond (or such other form of guarantee allowed in accordance with the MLUL) for a period not to exceed two (2) years after final acceptance of the Infrastructure Improvements, in an amount determined by the Borough Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.

(iii) If applicable, the Bond must name the Borough as an obligee and Redeveloper shall deliver a copy of the Bond to the Borough prior to Commencement of Construction. To the extent that a surety bond is provided, it shall be provided by a company licensed by the New Jersey Department of Banking and Insurance or otherwise authorized by the New Jersey Department of Banking and Insurance to do business in the State. In the event any insurance company, financial institution or other entity issuing a performance guarantee herein, shall be insolvent or shall declare bankruptcy or otherwise be subject to reorganization, rehabilitation, or other action, whereby State or federal agencies have taken over the management of the entity, within thirty (30) days after notice from the Borough, Redeveloper shall replace the Bond.

(iv) In the event any Bond should lapse, be canceled or withdrawn, or otherwise not remain in full force and effect as a result of any act or omission by Redeveloper, then until an approved replacement of the lapsed Bond has been deposited with the Borough, the Borough may require Redeveloper to cease and desist any and all work on the Project, unless the Infrastructure Improvements required to be bonded have been completed and approved by the Borough. In the event any Bond should lapse, be canceled or withdrawn, or otherwise not remain in full force and effect through no act or omission of Redeveloper, then unless Redeveloper fails to replace the Bond within ten (10) business days of notice given to Redeveloper by the Borough, the Borough may require Redeveloper to cease and desist work on the Project unless the Infrastructure Improvements required to be bonded have been completed and approved by the Borough.

SECTION 3.3. Cooperation. Both Parties shall fully cooperate with each other as necessary to accomplish the Project, including entering into additional agreements that may be required provided, however, that such actions shall not result in a material increase in the Parties' respective obligations hereunder or material decrease in the parties' respective rights hereunder.

ARTICLE 4

PROJECT OVERSIGHT

SECTION 4.1. Access to Project Property. Upon reasonable prior notice (except for Borough construction code officials, fire officials, public safety personnel and the like performing their duties in the ordinary course, who, subject to applicable law, shall not be obligated to provide advance written notice) and accompaniment by a representative of the Redeveloper, the Borough and its authorized representatives shall have the right to enter the

Project Property to inspect the site and any and all work in progress for the purpose of furthering its interest in this Redevelopment Agreement; provided, however, that Borough hereby acknowledges that the Project Property will be an active construction site. Such entrance shall be for informational purposes and shall not relieve the Redeveloper from its obligation to implement the Project in accordance with this Redevelopment Agreement. In no event shall the Borough's inspection of the Project be deemed acceptance of the work or be deemed to waive any right the Borough has under this Redevelopment Agreement.

SECTION 4.2. Progress Reports. Commencing on the Effective Date of this Agreement through issuance of a Certificate of Completion and Compliance for the Project, the Redeveloper shall submit to the Borough on a quarterly basis, a written progress report detailing the status of the Project including, but not limited to, status of Governmental approvals, financing approvals, construction of site improvements, square footage, and residential units completed and leased, an explanation of each activity, if any, which is showing delay, a description of problem areas, current and anticipated delaying factors and their estimated impact on performance of other activities and completion dates in the Project Schedule and an explanation of corrective action taken or proposed.

ARTICLE 5

REDEVELOPER AND BOROUGH FINANCIAL OBLIGATIONS

SECTION 5.1. Reimbursable Borough Costs. Simultaneously with the execution of this Agreement, the Redeveloper shall be responsible to post an escrow with the Borough in the amount of \$10,000.00 which shall be used to reimburse the Borough for the reasonable fees and costs incurred or to be incurred by its attorneys, engineers, planners and consultants in connection with the Project, including preparation and drafting of the Redevelopment Plan, this Agreement and any financial agreement as described in Section 5.3, and the implementation and oversight of the Project. At such time as the escrow is reduced to \$2,500.00 through reimbursement payments to the Borough's professionals, the Redeveloper shall be responsible to replenish the escrow account back to \$10,000.00. In the event the Redeveloper has a deficit balance in its escrow account, all work on the Project shall cease until such time that the Redeveloper deposits sufficient monies with the Borough.

SECTION 5.2. Affordable Housing Units. There shall be eleven (11) Affordable Housing Units built with this Project. The construction and operation of the Affordable Housing Units shall comply with Article XVII, Affordable Housing Obligations, of the Borough's Ordinances found in Section 17-68 through Section 17-89 of the Borough Code. The Redeveloper shall have an obligation to deed restrict the Affordable Housing Units as very low, low or moderate income

affordable units in accordance with Section 17-68 through Section 17-89 of the Borough Code for a period of at least thirty (30) years from the date of the initial occupancy of each Affordable Housing Unit (the "Deed Restriction Period") until the Borough takes action to release the controls on affordability, so that the Borough may count each affordable unit against its obligation to provide family rental affordable housing. Prior to the issuance of the first Certificate of Occupancy for the Project, Redeveloper shall execute and record a deed restriction for the affordable units in a form acceptable to the Borough. The deed restriction will be recorded in the Morris County Clerk's office. The Borough shall take all actions necessary to release and discharge the deed restriction with respect to each Affordable Housing Unit upon the expiration of the Deed Restriction Period with respect to such unit.

SECTION 5.3. Application for Tax Exemption. The Redeveloper intends to submit to the Borough an application for tax exemption in accordance with the Exemption Law, requesting a tax exemption for the Project and proposing that Redeveloper make annual payments to the Borough in lieu of taxes. Either Party shall have the right to terminate this Agreement upon written notice to the other Party if the Borough and the Redeveloper have not duly executed and delivered a financial agreement setting forth the terms and conditions for the tax exemption and payments in lieu of taxes within 120 days after the Effective Date. If this Agreement is terminated pursuant to the terms of this Section then, except as expressly set forth herein to the contrary and upon full payment of all Borough costs accruing until the date of such termination, this Agreement shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder.

ARTICLE 6

INDEMNIFICATION

SECTION 6.1. Redeveloper Indemnification.

(a) Redeveloper agrees to indemnify and hold harmless and defend the Borough and hold harmless and defend the Borough Indemnified Parties, and the Redeveloper shall pay any and all liability, loss, cost, damage, claims, judgments or expenses, of any and all kinds or nature and however arising, imposed by law, including but not limited to, any and all claims by workmen, employees and agents of the Redeveloper and unrelated third parties, which claims arise from the Project, which the Borough and/or the Borough Indemnified Parties may sustain, be subject to or be caused to incur by

reason of any claim, suit or action based upon personal injury, death, or damage to property, whether real, personal or mixed, based upon or arising from (i) Redeveloper's activities in connection with the Project, or any portion thereof, (ii) contracts entered into by the Redeveloper which relate to such Project activities, including but not limited to any and all claims by workmen, employees and agents of the Redeveloper, its contractor and subcontractors and unrelated third parties, (iii) the maintenance and functioning of the Project Improvements, or any other activities of Redeveloper within the Property, (iv) the current or former environmental condition of the Property and including but not limited to any third-party claim with respect to other properties alleging harm emanating from such environmental condition of the Property, (v) a material breach of this Agreement by Redeveloper, or (vi) any violation of applicable law by Redeveloper, unless any such loss, liability claim or suit in subsections (i) through (vi) above arises from the grossly negligent or intentional wrongful acts of the Borough, its employees, agents and contractors.

(b) Redeveloper, at its own cost and expense, shall defend any and all such claims, suits and actions identified in subsections (i) through (vi) above, which may be brought or asserted against the Borough, and/or the Borough Indemnified Parties; but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance, as may be provided for in this Agreement, from its obligation to defend Redeveloper, the Borough and any other insured named or named as an additional insured in such policy of insurance in connection with claims, suits or actions covered by such policy.

(c) In any situation in which the Borough Indemnified Parties are entitled to receive and desire defense and/or indemnification by Redeveloper, the Borough Indemnified Parties shall give prompt notice of such situation to Redeveloper. Failure to give prompt notice to Redeveloper shall not relieve Redeveloper of any liability to indemnify the Borough Indemnified Parties. Upon receipt of such notice, Redeveloper shall resist and defend any action or proceeding on behalf of the Borough Indemnified Parties, including the employment of counsel reasonably acceptable to the Borough Indemnified Parties, the payment of all reasonable expenses and the right to negotiate and consent to settlement. If the Borough has reasonably concluded that there are any legal defenses available to it that are different from, or additional to, those available to Redeveloper, the Borough shall have the right to retain counsel of its choosing, the reasonable costs of which shall be borne by Redeveloper (including any reasonable costs incurred by the Borough for its own experts necessary for such separate defense).

Furthermore, if the Borough has reasonably determined that its interests are not being adequately represented by counsel retained by Redeveloper, Redeveloper may elect to retain new counsel acceptable to the Borough, or to bear the reasonable costs of separate counsel retained by the Borough (including any reasonable costs incurred by the Borough for its own experts necessary for such separate defense).

(d) All of the other Borough Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof at their own expense. Redeveloper shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of Redeveloper or if there is a final judgment against Redeveloper or the Borough Indemnified Parties in any such action, Redeveloper shall indemnify and hold harmless the Borough Indemnified Parties from and against any loss or liability by reason of such settlement or judgment. Further, Redeveloper shall have the right to settle any such action on behalf of itself and all Borough Indemnified Parties, provided that such settlement, (i) is solely a monetary payment, (ii) does not involve the entry of a judgment against the Borough or any Borough Indemnified Parties and (iii) does not expose the Borough Indemnified Parties to any liability, contingent or otherwise. Redeveloper shall indemnify and hold harmless the Borough Indemnified Parties from and against any loss or liability by reason of such settlement.

(e) The provisions of this Section shall survive the termination of this Agreement.

(f) Prior to the start of construction, Redeveloper shall furnish the Borough with proof of commercial general liability insurance in the amount of \$2,000,000 combined single limit liability for bodily injury and property damage with the Borough, its officers, employees, consultants and agents as additional insureds with respect to or arising out of any claims related to Redeveloper's activities on the Property. Such certificate of insurance shall be in effect until the Certificate of Completion has been issued. Additionally, should the required insurance lapse for any reason, all work on the Property shall cease until such time that written proof of insurance is provided to the Borough.

ARTICLE 7

EVENTS OF DEFAULT AND REMEDIES

SECTION 7.1. Redeveloper's Default. The Borough shall have the right to declare the Redeveloper in default of this Agreement in the event of the occurrence of any of the following (each, a "Redeveloper Default"):

(a) The Redeveloper's failure to substantially perform any of its obligations under the terms of this Agreement;

(b) A final and unappealable determination by a court of competent jurisdiction that the Redeveloper is insolvent;

(c) (i) The Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of the Redeveloper; (iii) the Redeveloper (A) has made a general assignment for the benefit of creditors, or (B) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) the Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (v) the Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against the Redeveloper and shall not have been dismissed for a period of sixty (60) consecutive days; (vii) an Order for Relief shall have been entered with respect to or for the benefit of the Redeveloper under the Bankruptcy Code; (viii) an order, judgment or decree shall have been entered, without the application, approval or consent of the Redeveloper by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of the Redeveloper or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of sixty (60) consecutive days; or (ix) the Redeveloper shall have suspended the transaction of its usual business;

(d) Failure by the Redeveloper to make any payments owed to the Borough when due of Reimbursable Borough Costs or other required payments to the Borough pursuant to this Agreement;

(e) Abandonment of the Project by Redeveloper;

(f) Failure by Redeveloper to comply with the Project Schedule;

(g) Redeveloper has failed to pay, when due, any real estate taxes, payments in lieu of taxes or other assessments on the Property;

(h) Redeveloper has implemented a Transfer in violation of this Agreement;

(i) Failure by Redeveloper to comply with its obligations, or default by Redeveloper in any of its representations, warranties or covenants under this Agreement or any financial agreement that may be entered into by the Parties.

SECTION 7.2. Borough Default. The Redeveloper shall have the right to declare the Borough in default of this Agreement in the event of the failure by the Borough to substantially perform any covenant or condition under this Agreement (a "Borough Default"). A Borough Default and a Redeveloper Default may individually be referred to as, a "Default".

SECTION 7.3. Notice and Right to Cure Default.

(a) Upon the occurrence of a Default, the non-defaulting party shall notify the defaulting party in writing that it has declared that party in Default (the "Default Notice"). Absent such Default Notice, no declaration of Default shall be deemed binding against the defaulting party. The Default Notice shall state the basis for the determination that a Default has occurred. Upon receipt of the Default Notice, the defaulting party shall have, in the case of a financial obligation, ten (10) days to cure such Default; or in the case of any failure to perform any other obligation set forth in this Agreement, forty-five (45) days to commence to cure said Default. With respect to a failure to perform any obligation other than a financial obligation, provided the defaulting party shall thereafter diligently and continuously proceed to correct same, the defaulting party shall have an additional one hundred eighty (180) days to complete the cure. In the event that the defaulting party does not cure a Default as set forth herein, the non-defaulting party shall have the right to exercise the remedies set forth below. The Parties may agree in writing, notwithstanding the provisions of this paragraph, to extend the period of time by which the defaulting party must respond to the Default Notice or the period of time in which the defaulting party must cure the Default. Any Default by either Party hereto that remains uncured following any notice and applicable cure period, including any extensions thereto, shall be an "Event of Default".

SECTION 7.4. Uncontrollable Circumstance. An Uncontrollable Circumstance shall not constitute an Event of Default or breach of this Agreement. An Uncontrollable Circumstance shall be defined to include acts, events or conditions or any combination thereof (other than a labor strike by the Redeveloper, its employees or subcontractors, except as provided in subparagraph (e) hereof) that have had or may be reasonably expected to have a direct, material, adverse effect on the rights or obligations of the parties to this Agreement; provided, however, that such act, event or condition shall be beyond the reasonable control of the party relying thereon as justifications for not performing an obligation or complying with any condition required of such party under the terms of this Agreement, limited to: (a) an act of God, acts of public enemy, acts or omissions of other parties, war, terrorism, blockade, riot or

civil disturbance, sabotage or similar occurrence; but not including reasonably anticipated weather conditions for the geographic area of the Project, other than set forth above; (b) a landslide, fire, explosion, flood or release of nuclear radiation not created by an act or omission of either party; (c) the filing of a lawsuit by a third party, the action or inaction, order, judgment or determination of any federal, State or local court, administrative agency or governmental body with jurisdiction over the Property, adversely affecting the construction of the Project; provided, however, that such order, judgment, action and/or determination shall not be the result of the illegal or unlawful actions or inactions of the party relying thereon, and that neither the contesting of any order, judgment, action and/or determination, in good faith, nor the reasonable failure to contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such party; (d) the suspension, termination, interruption, revocation, denial or delay in renewal or issuance of any Governmental approval which is necessary to implement the Project, provided, however, that such suspension, termination, interruption, denial or failure of or delay in renewal or issuance shall not be the result of the willful, intentional or negligent action or inaction of the party relying thereon, and that neither the contesting of any suspension, termination, interruption, denial, revocation or failure of renewal or issuance, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such party; (e) strikes or similar labor action by equipment manufacturers, suppliers of material and/or transporters of same; (f) acts or omissions of the other party, except in conformance with this Agreement, and (g) a pandemic similar to Covid-19.

The parties hereto acknowledge that the acts, events or conditions set forth in paragraphs (a) through (g) above are intended to be the only acts, events or conditions which may (upon satisfaction of the condition specified above, constitute an Uncontrollable Circumstance).

Notice by the party claiming such Uncontrollable Circumstance shall be sent to the other party within twenty (20) calendar days from the commencement of the cause. The notice shall include any documentation supporting the claim. Thereafter, the other party shall, within fifteen (15) calendar days from receipt of said notice, notify the claiming party whether or not it agrees that an Uncontrollable Circumstance exists. The failure to respond to the original notice within such time period shall be construed as an agreement that such Uncontrollable Circumstance exists.

In the event an Uncontrollable Circumstance is temporary in nature, either party may notify the other at such time that it believes the Uncontrollable Circumstance is ceased. The notice shall include any documentation supporting the claim that the Uncontrollable Circumstance has ceased. Thereafter, the other party shall, within twenty (20) calendar days of receipt of said notice, notifying the claiming party whether or not it agrees that an Uncontrollable Circumstance has ceased or not. The failure to respond to the original notice within such time period shall be construed as an agreement that such Uncontrollable Circumstance has ceased.

In the event that an Uncontrollable Circumstance is agreed by both parties to exist, the obligations of either or both parties under the terms of this Agreement, as applicable, shall be suspended for the duration of such Uncontrollable Circumstance, but only to the extent that compliance with such obligations is rendered unreasonable by the Uncontrollable Circumstance.

SECTION 7.5. Default Rights and Remedies. Except as may otherwise be provided in this Agreement, upon the occurrence of a Redeveloper Default, the Borough may terminate this Agreement and/or take whatever action, at law or in equity, it may deem desirable, including the seeking of damages, or institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, proceedings to compel specific performance by Redeveloper for breach of its obligations. In the event that the Borough terminates this Agreement following an Event of Default by Redeveloper, Redeveloper's designation as the redeveloper of the Property shall immediately terminate, together with Redeveloper's rights as Redeveloper. In that event, any tax exemption and financial agreement applicable to the Project, or any portion thereof, shall also immediately terminate. Upon the occurrence of a Borough Default, the Redeveloper's recourse shall be limited to compelling specific performance by the Borough, or in the event specific performance cannot cure such default, termination of this Agreement.

SECTION 7.6. Rights and Remedies of Parties Cumulative, No Waiver by Delay. The rights and remedies of the Parties whether provided by this Agreement or by law, shall be cumulative, and except as otherwise specifically provided by this Agreement, the exercise by the Parties of any one or more of such rights or remedies shall not preclude the exercise, at the same or at different times, of any other such rights or remedies for the same default, or for the same failure in respect to any of the terms, covenants, conditions or provisions of this Agreement or any of its remedies for any other default or breach. No delay by either Party in asserting any rights or exercising any remedy shall operate as a waiver of such rights or remedy or otherwise deprive it of, or limit such rights and remedies in any way (it being the intent of this provision that a Party shall not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver by a Party with respect to any specific Event of Default by the other Party under this Section be considered or treated as a waiver of the rights of the Party with respect to any other defaults by the other Party under this Section or with respect to the particular default except to the extent specifically waived in writing.

SECTION 7.7. Notice of Default to Mortgagor and Right to Cure.

(a) Except to the extent that the Property may be subject to a mortgage or other encumbrance or lien on the Effective Date, Redeveloper shall not engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or suffer any encumbrance or lien (other than liens for governmental impositions) to be made or attach to the Property, except as may be reasonably required for the construction of the Project or the continued operation of the Project or portion thereof after the completion of construction, provided, however, that upon the issuance of a Certificate of Completion and Compliance, such prohibition shall no longer apply with respect to the corresponding portion of the Project. Redeveloper shall notify the Borough in writing no less than ten (10) days in advance of any such financing secured by a mortgage or other lien instrument which it proposes to enter into with respect to the Project or any part thereof (the mortgagee thereunder or its affiliate, a "Holder"). The provisions of this Agreement shall not be deemed to grant to the Borough the right to approve or review the terms of any such proposed financing.

(b) This Agreement, as an arrangement made by a governmental body or agency of the State pursuant to statutes in connection with a project for redevelopment, renewal or rehabilitation, shall continue in full force and effect beyond any default in or foreclosure of any mortgage loan made to finance the Project, as though such default or foreclosure had not occurred, except as specifically provided herein.

(c) Whenever the Borough shall deliver any notice or demand to the Redeveloper with respect to any breach or the default under this Agreement, the Borough shall at the same time deliver to each Holder a copy of such notice or demand, provided that Redeveloper has delivered to the Borough a written notice of the name and address of such Holder. Each Holder shall have the right at its option within one hundred twenty (120) days after receipt of such notice to cure or remedy, or to commence to cure or remedy, any such default with respect to that portion of the property which is being financed by such holder and which is subject to being cured. Notwithstanding the above, no Holder shall be obligated by the provisions of this Agreement to construct or complete the Project or to guaranty such construction or completion, nor shall any covenant or any other provisions be construed so as to obligate the Holder. Notwithstanding the foregoing, nothing contained in this Agreement shall be deemed to permit or authorize such Holder to undertake or continue the development, construction or completion of the Project, or portion to which its mortgage relates (beyond the extent necessary to conserve or protect the Holder's security, including the improvements or construction already made), without the Holder first having expressly assumed Redeveloper's obligations to the Borough going forward from and after the date of such assumption with respect to the Project (or portion to which its mortgage relates) by written agreement reasonably satisfactory to the Borough and the Holder.

(d) If a Holder forecloses its mortgage secured by the Property (or portion to which its mortgage relates), or takes title to the Property (or portion to which its mortgage relates) by deed-in-lieu of foreclosure or similar transaction (collectively a "Foreclosure"), the Holder shall have the option to either (a) sell the Property and the Project to a responsible Person reasonably acceptable to the Borough, which Person shall assume the obligations of Redeveloper under this Agreement in accordance with applicable law, and/or (b) assume the obligations of Redeveloper under this Agreement in accordance with applicable law. In the event of a Foreclosure, and provided the Holder or the purchaser is in compliance with this Agreement, the Borough shall not seek to enforce against the Holder or purchaser of such parcel any of the remedies available to the Borough pursuant to the terms of this Agreement available in connection with the events preceding the Foreclosure. The Holder, or the Person assuming the obligations of Redeveloper as to the parcel affected by such Foreclosure or sale, in that event must agree to complete the Project in the manner provided in this Agreement, but subject to reasonable extensions of the Project Schedule, and shall submit evidence reasonably satisfactory to the Borough that it has the qualifications and financial responsibility necessary to perform such obligations. Any such Holder or Person assuming such obligations of Redeveloper, properly completing the Project, or any portion thereof, shall be entitled to Certificates of Completion and Compliance in accordance herewith. Nothing in this Agreement shall be construed or deemed to permit or to authorize any Holder, or such other Person assuming such obligations of Redeveloper, to devote the Property, or any part thereof, to any uses, or to construct any improvements thereon, other than those uses or improvements consistent with the Redevelopment Plan or other provided for or authorized by this Agreement.

ARTICLE 8

REPRESENTATIONS, WARRANTIES AND COVENANTS.

SECTION 8.1. Borough Representations. The Borough represents and warrants to Redeveloper as follows:

(a) The Borough (1) is a public body corporate and politic of the State of New Jersey, is duly organized, validly existing and in good standing under the laws of the State of New Jersey; and (2) has all requisite corporate power to execute, deliver and perform its obligations under this Redevelopment Agreement.

(b) The execution, delivery and performance of this Redevelopment Agreement and the transactions contemplated hereby; (I) have been duly authorized by all necessary corporate proceedings by the Borough; (2) do not conflict with or result in any breach or contravention of any provision of law, statute, rule or regulation to which the Borough is subject or any judgment, order,

writ, injunction, license or permit applicable to the Borough or its properties; and (3) do not conflict with any provision of its charter documents, bylaws, or any material agreement or other material instrument binding upon the Borough. The Borough is not in violation of any provision of its charter documents, bylaws, or any agreement or instrument to which it is subject or by which it or any of its properties are bound or any decree, order, judgment, statute, license, rule or regulation, in any of the foregoing cases in a manner that could reasonably be expected to materially adversely affect the ability of the Borough to perform its obligations under this Redevelopment Agreement.

(c) The execution and delivery of this Redevelopment Agreement will result in valid and legally binding obligations of the Borough enforceable against it in accordance with the respective terms and provisions hereof, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights and except to the extent that availability of the remedy of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding therefore may be brought.

(d) There are no pending, or to the knowledge of the Borough, threatened actions or proceedings by or before any court or administrative agency or arbitrator against or affecting the Borough that involve the Borough's execution or performance of this Redevelopment Agreement or the transactions contemplated hereby that, if adversely determined, are reasonably likely, either individually or in the aggregate, to materially adversely affect the ability of the Borough to perform its obligations under this Agreement.

(e) The Borough has designated the Property as an area in need of redevelopment pursuant to the Redevelopment Law and shall remain so designated during the term of this Agreement. The Property shall remain subject to the Redevelopment Plan, as such Redevelopment Plan may be modified or amended upon approval by the Borough and Redeveloper. The Borough has named Redeveloper the redeveloper for the Project in accordance with applicable law.

SECTION 8.2. Redeveloper Representations. Redeveloper represents and warrants to the Borough as follows:

(a) Redeveloper (1) is a New Jersey Limited Liability Company, duly formed, validly existing and in good standing under the laws of the State of New Jersey; and (2) has all requisite power to execute, deliver and perform its obligations under this Redevelopment Agreement.

(b) The execution, delivery and performance of this Redevelopment Agreement and the transactions contemplated hereby; (1) have been duly authorized by Redeveloper; (2) do not conflict with or result in any breach or contravention of any provision of law, statute, rule or regulation to which Redeveloper is subject or any judgment, order, writ, injunction, license or permit applicable to Redeveloper or its properties; and (3) do not conflict with any provision of its governing documents, or any material agreement or other material instrument binding upon Redeveloper. Redeveloper is not in violation of any provision of its charter documents, or any agreement or instrument to which it is subject or by which it or any of its properties are bound or any decree, order, judgment, statute, license, rule or regulation, in any of the foregoing cases in a manner that could reasonably be expected to materially adversely affect the ability of Redeveloper to perform its obligations under this Redevelopment Agreement.

(c) The execution and delivery of this Redevelopment Agreement will result in valid and legally binding obligations of Redeveloper enforceable against it in accordance with the respective terms and provisions hereof, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights and except to the extent that availability of the remedy of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding therefore may be brought.

(d) There are no pending or, to the knowledge of Redeveloper, threatened actions or proceedings by or before any court or administrative agency or arbitrator against or affecting Redeveloper or any of its Affiliates or that involve Redeveloper's execution or performance of this Redevelopment Agreement or the transactions contemplated hereby that, if adversely determined, are reasonably likely, either individually or in the aggregate, to materially adversely affect the ability of Redeveloper to perform its obligations under this Redevelopment Agreement.

(e) Redeveloper shall not use the Property, or permit the Property to be used, in any manner which violates any Legal Requirements.

(f) Redeveloper acknowledges that (1) Redeveloper shall construct only the uses established in the Redevelopment Plan; (2) Redeveloper shall develop the Project in accordance with the terms of this Redevelopment Agreement; (3) Redeveloper shall comply with the Redevelopment Law and all associated laws.

(g) Redeveloper is the owner of the Property.

(h) Subject to obtaining financing, Redeveloper is financially capable to undertake and fulfill the obligations of the Redeveloper hereunder.

(i) Redeveloper has the necessary expertise, qualifications, staff and resources to undertake and fulfill its obligations hereunder.

SECTION 8.3. Borough Covenants. The Borough covenants and agrees that:

(a) The Borough shall undertake and complete, with due diligence, all of its obligations under this Agreement.

(b) The Borough shall not amend or cause the amendment of the Redevelopment Plan in a manner that materially, adversely affects the Project during the term of this Agreement without the prior written consent of the Redeveloper.

SECTION 8.4. Redeveloper Covenants. Redeveloper covenants and agrees that:

(a) Redeveloper shall not use the Property or any part thereof in a manner that is not in all material respects consistent with the Redevelopment Plan, the Developmental Approvals and this Agreement. Redeveloper will construct only those uses established in the Redevelopment Plan or as the Redevelopment Plan may be modified, in writing, by the Borough from time to time in accordance with the Redevelopment Law.

(b) Except as permitted in Section 8.4(c) below, prior to the issuance of a Certificate of Completion and Compliance for the Project or any part thereof, pursuant to N.J.S.A. 40A:12A-9(a), Redeveloper shall not, without the prior written consent of the Borough, which the Borough shall not unreasonably withhold, condition or delay: (i) effect or permit any change, directly or indirectly, in the majority ownership of more than fifty percent (50%) of control of Redeveloper (whether in one transaction or by virtue of the combined effect of more than one transaction), provided, however, that the Borough will not unreasonably withhold consent to a transfer of a majority or greater interest in Redeveloper (or in an Affiliate of Redeveloper) to a reputable financial institution for bona fide financing purposes, provided that the Current Members of Redeveloper remain in control of the entity, (ii) assign or attempt to assign this Agreement or any rights herein or in the Property, (iii) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Property or the Project; or (iv) pledge, or transfer all or substantially all of its assets (collectively, a "Transfer").

If Redeveloper proposes a Transfer, other than as set forth above, Redeveloper will promptly provide to the Borough for its consideration any information or documentation reasonably requested by the Borough pertaining to the transferee's identity, principals,

qualifications, reputation and financial condition. If a Transfer is approved by the Borough, the transferee, by written document reasonably acceptable in form and substance to the Borough, for itself and its successors and assigns, and for the benefit of the Borough, shall expressly assume all of the obligations of Redeveloper under this Agreement applicable to the property interest conveyed with such sale, assignment or transfer and shall agree to be subject to all the conditions and restrictions to which Redeveloper is subject hereunder, including the restrictions regarding the right to subsequent transfers. All relevant instruments and other legal documents proposed to effect any such transfer shall be submitted to the Borough, and if the transferee is approved by the Borough, such approval shall be indicated to Redeveloper in writing.

(c) Redeveloper, without violating the provisions of Section 8.4(b), may effect the following Transfers, to which the Borough hereby consents upon receipt of notice thereof, without the necessity of further action by the Borough (the "Permitted Transfers"): (i) Transfers to an Affiliate of Redeveloper; (ii) leases to residential and commercial tenants; (iii) mortgages to secure Institutional Financing for the construction of the Project; (iv) environmental covenants and restrictions imposed by DEP as a condition of any permit or Governmental Approval; (v) any direct or indirect transfer of any interest in Redeveloper to a Person not presently holding an interest in Redeveloper, provided that the transfer is for less than fifty percent (50%) of the ownership interest of Redeveloper and otherwise does not change the control of Redeveloper; (vi) granting of easements, deed restrictions and licenses required for utilities or in connection with any Governmental Approvals; (vii) transfers by means of inheritance, devise or bequest or by operation of law upon an Immediate Family Member, or a trust established for the benefit of such Immediate Family Member; and (viii) any contract or agreement which effectuates any of the foregoing exceptions. With respect to any of the Permitted Transfers listed in this Section, Redeveloper shall provide to Borough written notice within thirty (30) days of such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee parties, individuals and/or entities involved.

(d) Upon issuance of a Certificate of Completion and Compliance for the Project, Redeveloper shall have the right to sell its interest in the real property.

(e) Redeveloper shall design, implement, complete and operate the Redevelopment Project in compliance with this Agreement and all other applicable laws, ordinances, Governmental Approvals, rules, regulations and requirements applicable thereto including, but

not limited to, such zoning, sanitary, pollution, health, environmental and safety ordinances, laws and such rules and regulations thereunder as shall be binding upon Redeveloper under applicable laws. Without limiting the foregoing, Redeveloper shall comply at its own expense with all applicable stormwater regulations, including but not limited to, those pertaining to detention, recharge and water quality.

(f) Redeveloper shall not unlawfully discriminate against or segregate any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, sex, affectional or sexual orientation in the sale, lease, sublease, rental, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Redeveloper itself, or any person claiming under or through Redeveloper, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees on the Property.

(g) Redeveloper shall not use the Property, or any part thereof, as security or collateral for an unrelated transaction.

SECTION 8.5. Recordation. In accordance with the Redevelopment Law, a short form memorandum of this Agreement, in the form attached hereto as Exhibit C (the "Declaration"), shall be duly recorded by Redeveloper in the land records of Morris County, upon execution of this Agreement, and the cost of such recordation shall be paid by Redeveloper.

ARTICLE 9

MISCELLANEOUS

SECTION 9.1. Notices. Formal notices, demands and communications between the Borough and the Redeveloper and from the Redeveloper to the Borough (as required herein) shall be deemed sufficiently given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed delivered upon receipt. Notices may also be sent by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by written notice.

Copies of all notices, demands and communications shall be sent as follows:

If to the Redeveloper:

James Yacenda
Orchards at Mt. Arlington Urban Renewal, LLC

1075 Route 34, Suite G
Aberdeen, New Jersey 07747

With a copy to:

Barry R. Mandelbaum, Esq.
Mandelbaum Salsburg P.C.
3 Becker Farm Road, Suite 105
Roseland, New Jersey 07068

If to the Borough:

Borough of Mount Arlington
419 Howard Boulevard
Mount Arlington, New Jersey 07856
Attn: Matthew N. Bansch, Borough Clerk

With a copy to:

Matt Jessup, Esq.
McManimon Scotland & Baumann LLC
75 Livingston Avenue
Roseland, New Jersey 07068

SECTION 9.2. Non-Liability of Officials and Employees of Borough. No member, official, employee, or consultants of Borough shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Borough, or for any amount which may become due to the Redeveloper or its successor, or on any obligation under the terms of this Redevelopment Agreement.

SECTION 9.3. Non-Liability of Officials and Employees of Redeveloper. No member, officer, shareholder, director, partner, employee or consultant of Redeveloper shall be personally liable to the Borough, or any successor in interest, in the event of any default or breach by the Redeveloper or for any amount which may become due to the Borough, or its successor, on any obligation under the terms of this Redevelopment Agreement.

SECTION 9.4. Estoppel Certificate. Within ten (10) days following written request therefor by a party hereto, the other party shall issue a signed estoppel certificate either stating that this Redevelopment Agreement is in full force and effect and that there is no default or breach under this Redevelopment Agreement (nor any event which, with the passage of time and the giving of notice would result in a default or breach under this Redevelopment Agreement), or stating the nature of the default or breach or event, if any. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default,

breach and/or event may be cured. No more than a reasonable number of estoppel certificates may be requested per year.

SECTION 9.5. Lender Changes. If the Redeveloper's lender requires a change in the terms of this Agreement, the Borough shall reasonably cooperate with the Redeveloper in approving such change, so long as such change does not modify or change the substantial rights or obligations of the Borough as set forth in this Redevelopment Agreement. In addition, the Borough shall enter into such agreements as the Redeveloper's lender (or its equity participants) may reasonably require provided that such agreement shall not be inconsistent with the terms of this Redevelopment Agreement (i.e., shall not increase Borough's responsibilities or decrease its benefits hereunder).

SECTION 9.6. No Brokerage Commissions. The Borough and the Redeveloper each represent one to the other that no real estate broker initiated, assisted, negotiated or consummated this Redevelopment Agreement as broker, agent, or otherwise acting on behalf of either the Borough or the Redeveloper, and the Borough and the Redeveloper shall indemnify each other with respect to any claims made by any person, firm or organization claiming to have been so employed by the indemnifying party.

SECTION 9.7. No Consideration For Redevelopment Agreement. The Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration in connection with obtaining this Redevelopment Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. The Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Borough, any money or other consideration for or in connection with this Redevelopment Agreement.

SECTION 9.8. Successors and Assigns. This Redevelopment Agreement shall be binding upon and inure to the benefit of the permitted successors, assigns and affiliates of the parties hereto, and their heirs, executors, and administrators.

SECTION 9.9. Exhibits and Schedules. All Exhibits and Schedules attached hereto and/or referred to in this Redevelopment Agreement are incorporated herein as though set forth in full.

SECTION 9.10. Titles of Articles and Sections. The titles of the several Articles and Sections of this Redevelopment Agreement are inserted for the convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

SECTION 9.11. Severability of Provisions. If any term or provision of this Redevelopment Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Redevelopment Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each other term and provision of this Redevelopment Agreement shall be valid and shall be enforced to the extent permitted by law.

SECTION 9.12. Modification of Redevelopment Agreement. No modification, waiver, amendment, discharge, or change of this Redevelopment Agreement shall be valid unless the same is in writing, duly authorized, and signed by the party against which the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

SECTION 9.13. Execution of Counterpart. This Redevelopment Agreement may be executed in one or more counterparts and when each party has executed and delivered at least one counterpart, this Redevelopment Agreement shall become binding on the parties and such counterparts shall constitute one and the same instrument.

SECTION 9.14. Drafting Ambiguities: Interpretation. In interpreting any provision of this Redevelopment Agreement, no weight shall be given to, nor shall any construction or interpretation be influenced by, the fact that counsel for one of the parties drafted this Redevelopment Agreement, each party acknowledging that it and its counsel have had an opportunity to review this Redevelopment Agreement and have contributed to the final form of same.

SECTION 9.15. Waivers and Amendments in Writing. All waivers of the provisions of this Redevelopment Agreement must be in writing and signed by the appropriate authorities of the Borough and the Redeveloper and all amendments hereto must be in writing and signed by the appropriate authorities of the Borough and the Redeveloper. The waiver by either party of a default or of a breach of any provision of this Redevelopment Agreement by the other party shall not operate or be construed to operate as a waiver of any subsequent default or breach.

SECTION 9.16. Conflict of Interest. No member, official or employee of Borough shall have any direct or indirect interest in this Redevelopment Agreement, nor participate in any decision relating to the Redevelopment Agreement which is prohibited by law.

SECTION 9.17. Governing Law. This Redevelopment Agreement shall be governed by and construed in accordance with the applicable laws of the State of New Jersey.

SECTION 9.18. Withholding of Approvals. All approvals, consents and acceptances required to be given or made by any person or party hereunder shall not be unreasonably withheld or delayed unless specifically stated otherwise.

SECTION 9.19. Return of Escrows. Upon any termination of this Agreement for any reason whatsoever, all escrows and other amounts deposited with the Borough under this Agreement shall be promptly returned to Redeveloper, after payment of any costs and/or permitted damages for which Redeveloper is then liable under the terms of this Agreement.

SECTION 9.20. Time of the Essence. Time is of the essence in this Redevelopment Agreement and the performance of all obligations hereunder.

Signatures on Following Page

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed, all as of the date first above written.

WITNESS: ORCHARDS AT MT. ARLINGTON URBAN RENEWAL, LLC

By: _____

WITNESS: BOROUGH OF MOUNT ARLINGTON

By: _____

STATE OF NEW JERSEY :
 : SS :
COUNTY OF :

I CERTIFY that on _____ personally came before me, and this person acknowledged under oath to my satisfaction that:

- (a) this person is the _____ of Orchards at Mt. Arlington Urban Renewal, LLC, the entity named in this document.
- (b) this document was signed and delivered by the entity as its voluntary act duly authorized by a proper resolution of Orchards at Mt. Arlington Urban Renewal, LLC; and
- (C) this person signed this proof to attest to the truth of these facts.

STATE OF NEW JERSEY

SS:

COUNTY OF MORRIS

I CERTIFY that on _____, _____ personally came before me, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the _____ of the Borough of Mount Arlington, named in this document;
- (b) this document was signed and delivered by the Borough as its voluntary act duly authorized by a proper resolution of the Borough; and
- (c) this person signed this proof to attest to the truth of these facts.

EXHIBIT A

Concept Plan

EXHIBIT B

Project Schedule

Commencement of demolition:

First Building - 75 days from the later of (a) the effective date of a financial agreement as set forth in Section 5.3 or (b) attainment of Governmental Approvals.

Second Building – 75 days from the completion of construction of the First Building.

Completion of demolition:

150 days from the commencement of demolition of each building.

Commencement of site improvements:

90 days from completion of demolition of the First Building.

Completion of site improvements through base paving (excluding area within perimeter curblines of the Second Building):

210 days from completion of demolition of the First Building.

Application for building permits for the buildings:

First Building - 180 days from commencement of site improvements.

Second Building: - 390 days from Commencement of Construction of First Building.

Commencement of building construction:

75 days from the issuance of building permits or 60 days from completion of demolition, whichever is later, for each building.

Certificate of Occupancy:

17 months from the Commencement of Construction of each building.

Issuance of building permit for the Retail Façade Renovation:

90 days from issuance of Certificate of Occupancy for the Second Building.

Commencement of construction of the Retail Façade Renovations:

60 days from the issuance of the building permit for the Retail Façade Renovation.

Completion of Retail Façade Renovations:

210 days from the Commencement of Construction of façade renovations.

Completion and Acceptance of the Retail Façade Renovations and all site improvements:

75 days from completion of façade renovations.

Notes:

At this time, it is not determined which of the two buildings will be demolished and constructed first. Therefore, the characterization of “First” and “Second” Building shall serve to denote the building that the Redeveloper elects to proceed with first (and second).

EXHIBIT C

Declaration

Record and Return to:
Matthew D. Jessup, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, Second Floor
Roseland, New Jersey 07068

DECLARATION OF COVENANTS AND RESTRICTIONS

Block 61.02, Lot 23.08 in the Borough of Mount Arlington, New Jersey described in that certain metes and bounds description attached hereto as **Exhibit A** (the "**Property**")

This Declaration of Restrictions is made this ____ day of _____, 2021 by and between the **BOROUGH OF MOUNT ARLINGTON** (the "**Borough**"), a municipal corporation of the State of New Jersey having its offices at 419 Howard Boulevard, Mount Arlington, New Jersey 07856, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A:12A-4(c)*;

and

THE ORCHARDS AT MOUNT ARLINGTON URBAN RENEWAL, LLC., a limited liability company of the State of New Jersey, having its offices at c/o Florham Realty Management, 1075 Route 34, Suite G, Aberdeen, New Jersey 07747 (together with permitted successors or assigns hereinafter provided, referred to as the "**Redeveloper**").

W I T N E S S E T H

WHEREAS, Redeveloper is the owner of Block 61.02 Lot 23.08 as shown on the official Tax Map of the Borough of Mt. Arlington, Morris County, and commonly known as 181 Howard Boulevard, consisting of approximately 7.61 acres (the "**Property**"); and

WHEREAS, the Property is located in an area designated by the Borough Council as being "in need of redevelopment" in accordance with the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1, et. seq.*, as amended and supplemented ("**Redevelopment Law**"); and

WHEREAS, the Property is also subject to the "111 & 181 Howard Boulevard Redevelopment Plan", as prepared by Jessica C. Caldwell, P.P./AICP, dated February 2, 2021 adopted by the Borough Council by way of Ordinance No. 02-2021 on March 2, 2021 in

accordance with the Redevelopment Law (as may be further amended from time to time, the "Redevelopment Plan"); and

WHEREAS, Redeveloper and the Borough entered into a redevelopment agreement dated [] for the redevelopment of the Property consistent with the Redevelopment Plan (the "Redevelopment Agreement"); and

WHEREAS, N.J.S.A. 40A:12A-9(a) of the Redevelopment Law requires that all agreements, leases, deeds and other instruments between a municipality and a redeveloper shall contain a covenant running with the land requiring, among other things, that ". . . the owner shall construct only the uses established in the current redevelopment plan . . ."; and

WHEREAS, the Redevelopment Agreement requires that such covenants be memorialized in a Declaration of Restrictions and said declaration be recorded in the office of the Morris County Clerk,

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1. Defined terms not otherwise defined herein shall have the meaning assigned to such terms in the Redevelopment Agreement.

Section 2. Redeveloper covenants and agrees that, subject to the terms of the Redevelopment Agreement:

(a) Redeveloper shall construct the Project on the Property in accordance with, and subject to the terms of, the Redevelopment Plan, the Redevelopment Agreement, and all Applicable Laws.

(b) Redeveloper shall not use the Property or any part thereof in a manner that is not in all material respects consistent with the Redevelopment Plan, the Developmental Approvals and the Redevelopment Agreement. Redeveloper will construct only those uses established in the Redevelopment Plan or as the Redevelopment Plan may be modified, in writing, by the Borough from time to time in accordance with the Redevelopment Law.

(c) Except as permitted in paragraph (d) below, prior to the issuance of a Certificate of Completion for the Project or any part thereof, pursuant to N.J.S.A. 40A:12A-9(a), Redeveloper shall not, without the prior written consent of the Borough in its reasonable discretion: (i) effect or permit any change, directly or indirectly, in the majority ownership of more than fifty percent (50%) or control of Redeveloper (whether in one transaction or by virtue of the combined effect of more than one transaction), provided, however, that the Borough will not unreasonably withhold consent to a transfer of a majority or greater interest in Redeveloper (or in an Affiliate of Redeveloper) to a reputable financial institution for *bona fide* financing purposes, provided that

the current members of Redeveloper remain in control of the entity, (ii) assign or attempt to assign the Redevelopment Agreement or any rights herein or in the Property, (iii) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Property or the Project; or (iv) pledge, or transfer all or substantially all of its assets (collectively, a “**Transfer**”). If Redeveloper proposes a Transfer, other than as set forth above, Redeveloper will promptly provide to the Borough for its consideration information concerning the proposed transferee, including, but not limited to, current audited financial statements for the proposed transferee and any other documentation reasonably requested by the Borough pertaining to the transferee’s identity, principals, qualifications, reputation and financial condition. If a Transfer is approved by the Borough, the transferee, by written document acceptable in form and substance to the Borough, for itself and its successors and assigns, and for the benefit of the Borough, shall expressly assume all of the obligations of Redeveloper under the Redevelopment Agreement applicable to the property interest conveyed with such sale, assignment or transfer and shall agree to be subject to all the conditions and restrictions to which Redeveloper is subject hereunder, including the restrictions regarding the right to subsequent transfers. All relevant instruments and other legal documents proposed to effect any such transfer shall be submitted to the Borough, and if the transferee is approved by the Borough, such approval shall be indicated to Redeveloper in writing.

(d) Redeveloper, without violating the provisions of paragraph (c), may, subject to the requirements of N.J.S.A. 40A:12A-9(a) effect the following Transfers, to which the Borough hereby consents upon receipt of notice thereof, without the necessity of further action by the Borough (the “**Permitted Transfers**”): (i) Transfers to an Affiliate of Redeveloper; (ii) leases to residential tenants; (iii) mortgages to secure Institutional Financing for acquisition of the Property and/or the construction of the Project; (iv) environmental covenants and restrictions imposed by DEP as a condition of any permit or Approval; (v) any direct or indirect transfer of any interest in Redeveloper to a Person not presently holding an interest in Redeveloper, provided that the transfer is for less than fifty percent (50%) of the ownership interest of Redeveloper and otherwise does not change the control of Redeveloper; (vi) granting of easements, deed restrictions and licenses required for utilities or in connection with development approvals; (vii) transfers by means of inheritance, devise or bequest or by operation of law upon an Immediate Family Member, or a trust established for the benefit of such Immediate Family Member; and (viii) any contract or agreement which effectuates any of the foregoing exceptions. With respect to any of the Permitted Transfers listed in this Section, Redeveloper shall provide to Borough written notice within thirty (30) days of such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee parties, individuals and/or entities involved.

(e) Upon issuance of a Certificate of Completion for the Project, Redeveloper shall have the right to sell its interest in the real property.

(f) Redeveloper shall design, implement, complete and operate the Project in compliance with the Redevelopment Agreement and all other Applicable Laws, ordinances, Approvals, rules, regulations and requirements applicable thereto including, but not limited to, such zoning, sanitary, pollution, health, environmental and safety ordinances, laws and such rules and regulations thereunder as shall be binding upon Redeveloper under Applicable Laws. Without

limiting the foregoing, Redeveloper shall comply at its own expense with all stormwater regulations, including but not limited to, those pertaining to detention, recharge and water quality.

(g) Redeveloper shall not unlawfully discriminate against or segregate any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, sex, affectional or sexual orientation in the sale, lease, sublease, rental, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Redeveloper itself, or any person claiming under or through Redeveloper, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use of occupancy of tenants, lessees, subtenants, sublessees, or vendees on the Property.

(h) Redeveloper shall not use the Property, or any part thereof, as security or collateral for an unrelated transaction.

(i) Redeveloper shall include as part of the Project, affordable housing rental units, which shall be deed restricted in accordance with the terms and conditions of the Redevelopment Agreement.

Section 3. It is intended and agreed that the covenants and restrictions set forth in Section 2 shall be covenants running with the land. All covenants in Section 2, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Redevelopment Agreement, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Borough and its successors and assigns, and any successor in interest to the Property, or any part thereof, against Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property or any part thereof. Notwithstanding the foregoing, the agreements and covenants set for in Section 2 shall cease and terminate upon the issuance of a Certificate of Completion for such Improvements, provided however, that the covenants in 2(f), (g), (i) and (j) shall remain in effect without limitation as to time.

Section 4. It is intended and agreed that the Borough and its successors and assigns shall be deemed beneficiaries of the agreements and covenants set forth in Section 2 both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants shall run in favor of the Borough for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Borough has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate.

IN WITNESS WHEREOF, the parties hereto have caused this Declaration of Covenants and Restrictions to be executed in their names by their duly authorized officials or managers, as the case may be, and their corporate seals to be hereunto affixed attested to by their duly authorized officers all as of the date first written above.

Attest:

BOROUGH OF MOUNT ARLINGTON

Matthew N. Bansch
Borough Clerk

By: _____
Name: Michael Stanzilis
Title: Mayor

Witness:

**ORCHARDS AT MT. ARLINGTON URBAN
RENEWAL, LLC**

By: _____
Name:
Title:

STATE OF NEW JERSEY :
: ss.:
COUNTY OF UNION :

BE IT REMEMBERED, that on this ____ day of _____, 2021 before me, the subscriber, a Notary Public of New Jersey, personally appeared Michael Stanzilis, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction that he is the Mayor of the **BOROUGH OF MOUNT ARLINGTON, NEW JERSEY**, the entity named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the Borough of Mount Arlington and said Instrument was signed and delivered by said Mayor as and for the voluntary act and deed of said entity.

Notary or Attorney At Law
The State of New Jersey

STATE OF NEW JERSEY :
: ss.:
COUNTY OF :

BE IT REMEMBERED, that on this ___ day of _____, 2021 before me, the subscriber, a Notary Public of New Jersey, personally appeared _____, who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction that he is the _____ of **ORCHARDS AT MT. ARLINGTON URBAN RENEWAL, LLC**, the entity named in the within Instrument; that the execution, as well as the making of this Instrument, have been duly authorized by the entity and said Instrument was signed and delivered by said _____ as and for the voluntary act and deed of said entity.

Notary or Attorney At Law
The State of New Jersey

**EXHIBIT A
METES AND BOUNDS DESCRIPTION**