

ORDINANCE 03 - 2023

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO THE FINANCIAL AGREEMENT WITH THE ORCHARDS AT MOUNT ARLINGTON URBAN RENEWAL, LLC WITH RESPECT TO CERTAIN PROPERTY IDENTIFIED AS BLOCK 61.02, LOT 23.08, COMMONLY REFERRED TO AS 181 HOWARD BOULEVARD

WHEREAS, an affiliate of The Orchards at Mount Arlington Urban Renewal, LLC (the “**Entity**”) is the owner of Block 61.02, Lot 23.08 as shown on the official Tax Map of the Borough of Mount Arlington, Morris County, and commonly known as 181 Howard Boulevard, consisting of approximately 7.61 acres (the “**Property**”); and

WHEREAS, on July 9, 2020 the Borough of Mount Arlington Council (the “**Borough Council**”) adopted Resolution 2020-109 designating the Property as an area “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 (the “**Redevelopment Law**”); and

WHEREAS, in accordance with the Redevelopment Law, on March 2, 2021 the Borough Council adopted Ordinance 02-2021 authorizing a redevelopment plan for the Property entitled the “111 & 181 Howard Boulevard Redevelopment Plan”, as prepared by Jessica C. Caldwell, P.P./AICP, dated February 2, 2021 (as may be further amended from time to time, the “**Redevelopment Plan**”); and

WHEREAS, the Borough and the Entity entered into that certain redevelopment agreement dated July 6, 2021, (the “**Redevelopment Agreement**”) which contemplates the redevelopment of the Property with 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; and

WHEREAS, the Entity 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 (“**Original Building 1**”), containing: (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; and

WHEREAS, the Entity proposes the demolition of the existing freestanding former bank building and the construction of a 5-story, multi-family residential building (“**Building 2**”), which 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; and

WHEREAS, 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, 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; and

WHEREAS, the Borough and the Entity entered into a financial agreement dated April 5, 2022 setting forth the terms and conditions for a tax exemption for the Property and a payment in lieu of taxes in accordance with the Exemption Law (the "**Financial Agreement**"); and

WHEREAS, the Parties wish to amend the Financial Agreement to modify the project description with regard to Original Building 1 as the redeveloper proposes the removal of the end of the east wing of the existing vacant retail building and the construction of a 5-story, multi-family residential building, which will contain: (1) the entrance, lobby, common space, fitness rooms, community lounges, and tenant storage for the residential units, (2) 28 market-rate rental apartments, including 26 one bedroom units and 2 two bedroom units, and (3) 9 rental residential units affordable to very low, low and/or moderate income households that qualify as such, consisting of 2 one-bedroom units, 3 two-bedroom units, and 4 three-bedroom units; and

WHEREAS, the Borough now desires to authorize the execution of a First Amendment to the Financial Agreement (this "**Amendment**") in substantially the form attached hereto as **Exhibit A**, as the same may be modified in accordance with the terms hereof, and further to evidence its consent to the Transfers on the terms and conditions set forth herein,

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

I. GENERAL

The aforementioned recitals are incorporated herein as though fully set forth at length.

II. EXECUTION OF FIRST AMENDMENT AUTHORIZED

(a) The Mayor is hereby authorized to execute this Amendment, substantially in the form attached hereto as **Exhibit A**, subject to additions, deletions, modifications, or revisions deemed necessary or appropriate by the Borough in consultation with counsel.

(b) The Borough Clerk is hereby authorized and directed, upon the execution of this Amendment in accordance with the terms of Section II(a) hereof, to attest to the signature of the Mayor upon such document and is hereby further authorized and directed to affix the corporate seal of the Borough upon such document.

(c) In accordance with P.L. 2015, c. 247, within ten (10) calendar days following the later of the effective date of this Ordinance or the execution of this Amendment by the Redeveloper, the Borough Clerk shall transmit a certified copy of this Ordinance and this Amendment to the chief financial officer of Morris County and to the Morris County Counsel for informational purposes, as well as to the Tax Assessor of the Borough.

III. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

IV. AVAILABILITY OF THE ORDINANCE

A copy of this Ordinance shall be available for public inspection at the offices of the Borough.

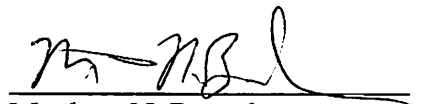
V. EFFECTIVE DATE

This Ordinance shall take effect as provided by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Council of the Borough of Mount Arlington, introduced on April 4, 2023; and which will be further considered after a public hearing held on May 2, 2023 at the Municipal Building at 7:00 p.m.

Attest:

BOROUGH OF MOUNT ARLINGTON



Matthew N. Bansch
Borough Clerk

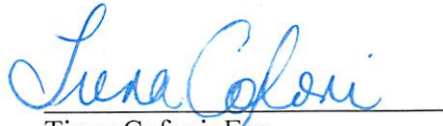


Michael Stanzilis, Mayor
Borough of Mount Arlington

EXHIBIT A

Form of First Amendment

Record and Return to:



Tiena Cofoni, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

FIRST AMENDMENT TO FINANCIAL AGREEMENT

THIS FIRST AMENDMENT TO FINANCIAL AGREEMENT (this “**Amendment**”), dated as of June 1, 2023 (the “**Effective Date**”), is by and between **THE ORCHARDS AT MT. ARLINGTON URBAN RENEWAL, LLC** (the “**Entity**”), a New Jersey limited liability company and an urban renewal entity qualified to do business under the provisions of the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. (the “**Exemption Law**”), with offices at 1075 Route 34, Suite G, Aberdeen, New Jersey 07747, and **THE BOROUGH OF MOUNT ARLINGTON** (the “**Borough**”), a municipal corporation of the State of New Jersey, with offices at 419 Howard Boulevard, Mount Arlington, New Jersey 07856.

WITNESSETH:

WHEREAS, an affiliate of the Entity is the owner of Block 61.02 Lot 23.08 as shown on the official Tax Map of the Borough of Mount Arlington, Morris County, and commonly known as 181 Howard Boulevard, consisting of approximately 7.61 acres (the “**Property**”); and

WHEREAS, on July 9, 2020 the Borough Council adopted Resolution 2020-109 designating the Property as an area designated “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 (the “**Redevelopment Law**”); and

WHEREAS, in accordance with the Redevelopment Law, on March 2, 2021 the Borough Council adopted Ordinance 02-2021 authorizing a redevelopment plan for the Property entitled the “111 & 181 Howard Boulevard Redevelopment Plan”, as prepared by Jessica C. Caldwell, P.P./AICP, dated February 2, 2021 (as may be further amended from time to time, the “**Redevelopment Plan**”); and

WHEREAS, the Borough and the Entity entered into that certain redevelopment agreement dated July 6, 2021, (the “**Redevelopment Agreement**”) which contemplates the redevelopment of the Property with 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; and

WHEREAS, the Entity 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 ("**Original Building 1**"), containing: (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; and

WHEREAS, the Entity proposes the demolition of the existing freestanding former bank building and the construction of a 5-story, multi-family residential building ("**Building 2**"), which 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; and

WHEREAS, 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, 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; and

WHEREAS, the Borough and the Entity entered into a financial agreement dated April 5, 2022 setting forth the terms and conditions for a tax exemption for the Property and a payment in lieu of taxes in accordance with the Exemption Law (the "**Financial Agreement**"); and

WHEREAS, the Parties wish to amend the Financial Agreement to modify the project description with regard to Original Building 1 as the redeveloper proposes the removal of the end of the east wing of the existing vacant retail building and the construction of a 5-story, multi-family residential building, which will contain: (1) the entrance, lobby, common space, fitness rooms, community lounges, and tenant storage for the residential units, (2) 28 market-rate rental apartments, including 26 one bedroom units and 2 two bedroom units, and (3) 9 rental residential units affordable to very low, low and/or moderate income households that qualify as such, consisting of 2 one-bedroom units, 3 two-bedroom units, and 4 three-bedroom units.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the Redeveloper and the Borough mutually covenant and agree as follows:

1. Section 2.4 of the Financial Agreement is hereby amended to read as follows:

"The **"Project"** includes the development, design, financing, and construction of 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 Entity 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: (i) the entrance, lobby, common space, fitness rooms, community lounges, and tenant storage for the residential units, (ii) 28 market-rate rental apartments, including 26 one bedroom units and 2 two bedroom units, and (iii) 9 rental residential units affordable to very low, low and/or moderate income households that qualify as such, consisting of 2 one-bedroom units, 3 two-bedroom units, and 4 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: (i) the entrance, lobby, common space, fitness rooms, community lounges, bike storage rooms, and tenant storage for the residential units, (ii) forty-three (43) market-rate rental apartments, including thirty-one (31) one-bedroom units and twelve (12) two-bedroom units, and (iii) four (4) two-bedroom Affordable Housing Units. Additional off-street parking spaces will be added to the Property in accordance with the site plan approval. The 34,694 square feet of retail/commercial space will remain in the existing retail building and the façade will be upgraded in accordance with the Redevelopment Agreement and Redevelopment Plan (the "**Retail Improvements**"). The Project shall also include outdoor amenity areas, site improvements, signage, utilities and infrastructure improvements, all in accordance with the Redevelopment Plan, Redevelopment Agreement, and any and all approvals granted by any and all other governmental agencies exercising jurisdiction over the Property."

2. Miscellaneous.

(a) The execution and delivery of this Amendment has been duly authorized by all necessary action of each of the parties hereto and represents the valid and binding act and obligation of each of them, enforceable against each of them in accordance with its terms. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) This Amendment and the Ordinance will be filed and recorded with the Morris County Clerk by the Entity at the Entity's expense.

(c) Upon the Effective Date (as defined below), the Clerk of the Borough shall deliver to the Tax Assessor a certified copy of the Ordinance along with an executed copy of this Amendment. Such delivery by the Borough Clerk to the Tax Assessor shall constitute the certification as required in accordance with the Exemption Law, specifically N.J.S.A. 40A:20-12.

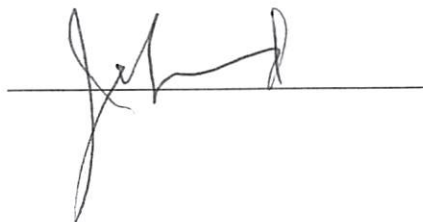
(d) This Amendment may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(e) This Amendment may not be amended, changed, modified, altered or terminated without the written consent of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first above written.

WITNESS:

THE ORCHARDS AT MT. ARLINGTON
URBAN RENEWAL, LLC



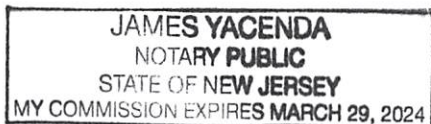
By:


Name: JAMES DOLAN
Title: Authorized Signatory
Managing Member

STATE OF NEW JERSEY,
COUNTY OF _____ SS:

I CERTIFY that on June 1, 2023, James Dolan personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of the attached instrument;
- (b) was authorized and did execute this instrument as the authorized signatory of THE ORCHARDS AT MT. ARLINGTON URBAN RENEWAL, LLC; and
- (c) executed the instrument as the act of THE ORCHARDS AT MT. ARLINGTON URBAN RENEWAL, LLC.



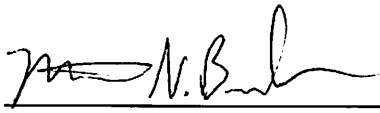

Notary Public

[Signatures continue on the following page]



WITNESS:

THE BOROUGH OF MOUNT ARLINGTON


Matthew N. Bansch, Borough Clerk

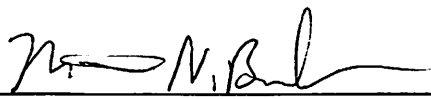
By: 
Michael Stanzilis, Mayor

STATE OF NEW JERSEY,
COUNTY OF MORRIS

SS:

I CERTIFY that on May 2nd, 2023, Michael Stanzilis personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of the attached instrument;
- (b) was authorized and did execute this instrument as the Mayor of the Borough of Mount Arlington; and
- (c) executed the instrument as the act of the Borough of Mount Arlington.


Notary Public

MATTHEW N. BANSCH
NOTARY PUBLIC OF NEW JERSEY
Commission # 50109011
My Commission Expires 7/24/2024

