

SOUTH ORANGE VILLAGE
Municipal Offices
76 South Orange Ave
Suite 302
South Orange
Essex County
New Jersey 07079

www.southorange.org
P 973.378.7715
F 973.763.0987



RESOLUTION #2021-118

May 10, 2021

**RESOLUTION OF THE TOWNSHIP OF SOUTH ORANGE VILLAGE, COUNTY OF ESSEX,
NEW JERSEY AMENDING THE REDEVELOPMENT AND PURCHASE AND SALE
AGREEMENT WITH THIRD AND VALLEY URBAN RENEWAL, LLC AND AUTHORIZING THE
EXECUTION OF A FOURTH AND FINAL AMENDMENT TO THE REDEVELOPMENT
AGREEMENT AND RECEIPT OF A PROMISSORY NOTE IN CONNECTION THEREWITH**

WHEREAS, the Township of South Orange Village, in the County of Essex, New Jersey (the "**Village**"), a public body corporate and politic of the State of New Jersey (the "**State**"), is authorized pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the "**Redevelopment Law**"), to determine whether certain parcels of land within the Village constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

WHEREAS, improvements to property located within an area designated as being in need of rehabilitation or redevelopment under the Redevelopment Law may qualify for tax exemptions under the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 *et seq.* (the "**LTTE Law**"); and

WHEREAS, on February 27, 1995, the Board of Trustees of the Village (the "**Board of Trustees**") requested that the Planning Board of the Village (the "**Planning Board**") perform an investigation to determine whether certain areas, including the area known as Block 2304, Lot 5 (formerly Block 2304, Lots 3, 4, 5, 6, 7, 8, and 9) on the tax map of the Village (the "**Property**") constitute "an area in need of redevelopment" under the Redevelopment Law; and

WHEREAS, by Resolution 301-99, adopted on December 18, 1995, the Board of Trustees designated the Property, among other blocks and lots, as an "area in need of redevelopment"; and

WHEREAS, by Resolution 98-96, adopted on April 22, 1996, the Board of Trustees formally requested that the Planning Board prepare a redevelopment plan for all properties identified as "an area in need of redevelopment," including the Property; and

WHEREAS, by resolution adopted on June 3, 1996, the Planning Board recommended the "Central Business District Redevelopment Plan" for consideration by the Board of Trustees; and



WHEREAS, by Ordinance 96-43, adopted on November 25, 1996, the Board of Trustees adopted the "Central Business District Redevelopment Plan" which includes the Property, and which was amended in its entirety by Ordinance 20-2002, adopted on September 23, 2002, and further amended by Ordinance 08-20, adopted on October 15, 2008 (the "**Central Business District Redevelopment Plan**"); and

WHEREAS, on February 24, 2011, the Village issued a request for proposals to develop the Property into a mixed-use project comprised of residential units, retail and parking; and

WHEREAS, an affiliate of Third & Valley Urban Renewal, LLC (collectively "**Third & Valley**") submitted the proposal which most encapsulated the Village's vision for the Property; and

WHEREAS, in order to develop the Property envisioned by the Village and Third & Valley, certain amendments and clarifications were required to be made to the Central Business District Redevelopment Plan; and

WHEREAS, by resolution adopted on August 13, 2012, the Board of Trustees requested that the Planning Board prepare a redevelopment plan that relates solely to the Property; and

WHEREAS, following meetings on October 16, 2012, November 5, 2012 and November 14, 2012, by Resolution 2012-199, adopted on November 14, 2012, the Planning Board recommended the "Valley and Third Streets Redevelopment Plan" dated October 2012 for consideration by the Board of Trustees; and

WHEREAS, by Ordinance 2012-24, adopted on January 28, 2013, the Board of Trustees adopted the "Valley & Third Streets Redevelopment Plan" dated January 14, 2013 (the "**Redevelopment Plan**"); and

WHEREAS, pursuant to N.J.S.A. 40A:12-4, the Board of Trustees determined to act as the "redevelopment entity" (as such term is defined in Redevelopment Law) for the Property; and

WHEREAS, by Resolution 2013-083, adopted on April 22, 2013, the Board of Trustees designated Third & Valley as the "redeveloper" (as such term is defined in Redevelopment Law) of the Property, and authorized the execution of a redevelopment agreement, by and between Third & Valley and the Village, which set forth the rights and obligations of the Village and Third & Valley concerning the



redevelopment of the Property, as well as the terms of the conveyance of the Property from the Village to Third & Valley; and

WHEREAS, Third & Valley and the Village entered into that certain Redevelopment and Purchase Agreement, dated as of May 1, 2013 (as amended, the "**Redevelopment Agreement**"), whereby Third & Valley agreed to undertake the development and construction approximately 215 residential units, approximately 3,000 square feet of retail space, and a structured parking deck (collectively, the "**Project**"), and the Village agreed to sell the Property to Third & Valley in accordance with terms set forth therein; and

WHEREAS, thereafter, Third & Valley purchased the balance of Property from the Village pursuant to the terms of the Redevelopment Agreement and became the sole-owner of the Property; and

WHEREAS, in order to enhance the economic viability of an opportunity for a successful project, Third & Valley submitted an application to the Village for the approval of a long term tax exemption for the Project (the "**Exemption Application**"), all in accordance with the LTTE Law, specifically N.J.S.A. 40A:20-8; and

WHEREAS, by Ordinance No. 2013-05, adopted on April 22, 2012, the Board of Trustees approved Third & Valley's Exemption Application and authorized the execution of a financial agreement, by and between Third & Valley and the Village, for the Project; and

WHEREAS, on May 1, 2013, the Village and Third & Valley entered into a Financial Agreement (the "**Financial Agreement**") establishing the terms of a tax exemption and the obligations of Third & Valley with respect to the payment of annual service charges and compliance with the LTTE Law; and

WHEREAS, by Resolution No. 2014-53, adopted on February 24, 2014, the Board of Trustees authorized the execution of a certain Amendment to Redevelopment Agreement between the Village and the Redeveloper, which was signed by the parties and dated as of March 9, 2014; and

WHEREAS, by Resolution No. 2016-70, adopted on April 11, 2016, the Board of Trustees authorized the execution of a certain Amendment # 2 to Redevelopment Agreement between the Village and the Redeveloper, which was signed by the parties and dated as of April 11, 2016; and



WHEREAS, by Resolution No. 2016-156, adopted on June 27, 2016, the Board of Trustees authorized the execution of a certain Amendment # 3 to Redevelopment Agreement between the Village and the Redeveloper, which was signed by the parties and dated as of June 30, 2016; and

WHEREAS, the Redeveloper has completed construction of the Project in its entirety, including construction of all proposed improvements to Property as of October 25, 2016 and received Final Certificate(s) of Occupancy from the Village's construction official on October 26, 2016; and

WHEREAS, on September 14, 2020, the Board of Trustees, by Resolution No. 2020-213, authorized the Village, after consultation with its professionals, to execute and deliver a Certificate of Completion to Third & Valley (the "**Certificate of Completion**"); and

WHEREAS, thereafter, in consultation with Village professionals and counsel, it was ascertained that certain amendments to the Redevelopment Agreement were desirable in connection with resolving certain filing and document deficiencies with regard to the Project, as further set forth herein; and

WHEREAS, in addition to resolving the such deficiencies, and in furtherance of the Village's desire to assist in the development of affordable housing for its residents, the parties desire to include an additional contribution to the Village for its Affordable Housing Trust Fund and other programs related to affordable housing within the Village, and record a revised Declaration of Covenants with regard to this obligation; and

WHEREAS, the form of the amendments are attached hereto as Exhibit A (the "**Fourth and Final Amendment**"), and include the following in summary:

- Modification of the Project description to reflect a Promissory Note evidencing an additional contribution for the Affordable Housing Trust Fund and other programs related to affordable housing within the Village, in the total amount of \$1,000,000.00, and the memorialization of the same through a revised Declaration of Covenants;
- Provision for the acceptance of Redeveloper's Certification as to the Total Project Cost with respect to Section 7.02 on the Financial Agreement, evidencing the final construction costs, in lieu of a certification from the architect;



- Provision for the acceptance of the Owner's Statement and Redeveloper's Certification as to the Rent Control Exemption, as required under the Rent Control Law, evidencing eligibility for same and in lieu of the original filings of same.

WHEREAS, under N.J.S.A. 2A:42-84.1 et seq. (the "**Rent Control Act**"), upon the filing of certain documents with the Village, the Project was entitled to an exemption from the local rent control ordinance, which provides in pertinent part that "a new multiple dwelling may be exempt from provisions of municipal rent control or rent leveling ordinances "which limit the periodic or regular increases in base rentals of dwelling units . . . for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the multiple dwelling, or for 30 years following completion of construction, whichever is less"; and

WHEREAS, in addition, pursuant to Section 7.02 of the Financial Agreement, Third & Valley was required to file with the Village an Architect's Certification of Construction Cost for the Project; and

WHEREAS, Third & Valley is unable to locate such documents, and desires now to immediately correct these issues; and

WHEREAS, the Village having reviewed the matter, believes that under the circumstances, it would be reasonable and appropriate to accept the Redeveloper's Certification as to the Total Project Cost, and the Owner's Statement and Redeveloper's Certification as to the Rent Control Exemption, all as further set forth in the Fourth and Final Amendment; and

WHEREAS, Section 5.06 of the Redevelopment Agreement requires the Village to, among other things, issue the Redeveloper a Certificate of Completion for the Project, following the issuance of final Certificates of Occupancy and the satisfaction of the terms and conditions of the Redevelopment Agreement with respect to the Project; and

WHEREAS, the Village shall proceed with the issuance of the Certification of Completion upon satisfaction of the items specified for same in the Fourth and Final Amendment..



NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWNSHIP OF SOUTH ORANGE VILLAGE, COUNTY OF ESSEX, STATE OF NEW JERSEY AS FOLLOWS:

Section 1. The Recitals are incorporated by reference as if set forth in full.

Section 2. The Village President and Clerk, in consultation with counsel to the Village, is hereby authorized to execute all documents required to effectuate the obligations contemplated by this Resolution, including but not limited to the Fourth and Final Amendment, the Promissory Note and any other agreements or documents necessary to effectuate this Resolution, subject to modification or revisions, as deemed necessary and appropriate by Village Counsel, and to take and perform all actions that may be necessary or desirable in connection therewith.

Section 3. Upon Third & Valley's completion of actions contemplated by this Resolution, and the Fourth and Final Amendment, including but not limited to filing of the revised Declaration of Covenants with the Essex County Register, the Village President and Clerk, in consultation with the Business Administrator, Village employees and the Village's professionals, shall execute and deliver a Certificate of Completion, or request that Third & Valley address any outstanding matters, within the timeframe and scope provided for in the Redevelopment Agreement.

Section 4. The Project shall conform with all federal, state and Village laws, ordinances and regulations relating to its construction and use.

Section 5. All actions taken heretofore with respect to the transactions contemplated hereby are ratified and confirmed.

Section 6. This Resolution shall take effect in accordance with all applicable laws.

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Clarke		X	X			
Coallier			X			
Hartshorn Hilton			X			
Jones			X			
Schnall	X		X			
Zuckerman			X			



CERTIFICATION

I, Ojetti E. Davis, Acting Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this is a true and correct copy of the Resolution adopted by the Board of Trustees at their regular meeting held on Monday, May 10, 2021.

A handwritten signature in blue ink, appearing to read "Ojetti E. Davis", is written over a horizontal line.

Ojetti E. Davis
Acting Village Clerk

FOURTH AND FINAL AMENDMENT TO THE REDEVELOPMENT AND PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE TOWNSHIP OF SOUTH ORANGE VILLAGE AND THIRD & VALLEY URBAN RENEWAL, LLC

This FOURTH AND FINAL AMENDMENT to the Redevelopment and Purchase and Sale Agreement (this “**Fourth and Final Amendment**”) is made on this ___ day of _____, 2021 the (“**Effective Date**”) by and between the TOWNSHIP OF SOUTH ORANGE VILLAGE, an instrumentality and agency of the State of New Jersey (the “**Village**”) and THIRD & VALLEY URBAN RENEWAL, LLC, a limited liability company of the State of New Jersey (the “**Redeveloper**”, and together with the Village, the “**Parties**”).

WITNESSETH:

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 to -49, as amended and supplemented (the “**Redevelopment Law**”), provides a process for municipalities to participate in the redevelopment and improvement of areas designated by the municipality as in need of redevelopment; and

WHEREAS, the Township of South Orange Village, in the County of Essex, New Jersey (the “**Village**”), a public body corporate and politic of the State of New Jersey, is authorized pursuant to the Redevelopment Law to determine whether certain parcels of land within the Village constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

WHEREAS, by Resolution 301-99, duly adopted on December 18, 1995, the Board of Trustees of the Village (the “**Board of Trustees**”) designated certain property identified as Block 2304, Lot 5 (formerly known as Block 2304, Lots 3, 4, 5, 6, 7, 8 and 9) on the tax maps of the Village (the “**Property**”), among other blocks and lots, as an “area in need of redevelopment”; and

WHEREAS, by Ordinance 96-43, duly adopted on November 25, 1996, the Board of Trustees adopted the “Central Business District Redevelopment Plan” which includes the Property, and which was amended in its entirety on September 23, 2002 by Ordinance 20-2002 and further amended by Ordinance 08-20, adopted on October 15, 2008; and

WHEREAS, subsequently, by resolution adopted on August 13, 2012, the Board of Trustees requested that the Planning Board of the Village prepare a redevelopment plan that relates solely to the Property; and

WHEREAS, in accordance with its prior determination, the Board of Trustees, by Ordinance 2012-24 adopted on January 28, 2013, duly adopted the “Valley & Third Streets Redevelopment Plan” dated January 14, 2013 (the “**Redevelopment Plan**”); and

WHEREAS, by Resolution 2013-083, adopted on April 22, 2013, the Board of Trustees designated the Third & Valley as “redeveloper” (as such term is defined in Redevelopment Law) of the Property, and authorized the execution of redevelopment agreement, which set forth the rights and obligations of the Village and the Third & Valley concerning the redevelopment of the Property, as well as the terms of the conveyance of the Property from the Village to the Third & Valley; and

WHEREAS, on April 22, 2013, the Board of Trustees adopted Ordinance 2013-05 entitled, “Ordinance of the Village of South Orange Township, County of Essex, New Jersey, Approving the Application and Financial Agreement for Tax Exemption for an Urban Renewal Project with Respect to a Portion of the Central Business District Redevelopment Area Located on Block 2304, Lots 3, 4, 5, 6, 7, 8 and 9”; and

WHEREAS, the Third & Valley and the Village entered into that certain Redevelopment and Purchase and Sale Agreement, dated as of May 1, 2013 (as amended, the “**Redevelopment Agreement**”), whereby the Third & Valley agreed to undertake the development and construction on the Property of approximately 215 residential units, approximately 3,000 square feet of retail space, and a parking deck (collectively, the “**Project**”) and the Village agreed to sell the Property to the Third & Valley in accordance with terms set forth therein; and

WHEREAS, thereafter Third & Valley purchased the balance of Property from the Village pursuant to the terms of the Redevelopment Agreement and became the sole owner of the Property; and

WHEREAS, the Village and Third & Valley entered into that certain Financial Agreement dated May 1, 2013 (the “**Financial Agreement**”), pertaining to payments to be made to the Village in lieu of real estate taxes for the Project pursuant to the LTTE Law; and

WHEREAS, by Resolution No. 2014-53, adopted on February 24, 2014, the Board of Trustees authorized the execution of a certain Amendment to Redevelopment Agreement between the Village and the Redeveloper, which was signed by the parties and dated as of March 9, 2014; and

WHEREAS, by Resolution No. 2016-70, adopted on April 11, 2016, the Board of Trustees authorized the execution of a certain Amendment # 2 to Redevelopment Agreement between the Village and the Redeveloper, which was signed by the parties and dated as of April 11, 2016; and

WHEREAS, by Resolution No. 2016-156, adopted on June 27, 2016, the Board of Trustees authorized the execution of a certain Amendment # 3 to Redevelopment Agreement between the Village and the Redeveloper, which was signed by the parties and dated as of June 30, 2016; and

WHEREAS, the Redeveloper has completed construction of the Project in its entirety, including construction of all proposed improvements to Property as of October 25, 2016 and received Final Certificate(s) of Occupancy from the Village’s construction official on October 26, 2016; and

WHEREAS, on September 14, 2020, the Board of Trustees, by Resolution No. 2020-213, authorized the Village, after consultation with its professionals, to execute and deliver a Certificate of Completion to Third & Valley (the “**Certificate of Completion**”); and

WHEREAS, thereafter, in consultation with Village professionals and counsel, it was ascertained that certain amendments to the Redevelopment Agreement were desirable in

connection with resolving certain filing and document deficiencies with regard to the Project, as further set forth herein; and

WHEREAS, in addition to resolving the such deficiencies, and in furtherance of the Village's desire to assist in the development of affordable housing for its residents, the parties desire to include an additional contribution to the Village for its Affordable Housing Trust Fund and other programs related to affordable housing within the Village, and record a revised Declaration of Covenants with regard to this obligation; and

WHEREAS, the amendments in this Fourth and Final Amendment are summarized as follows:

- Modification of the Project description to reflect a Promissory Note evidencing an additional contribution for the Affordable Housing Trust Fund and other programs related to affordable housing within the Village, in the total amount of \$1,000,000.00, and the memorialization of the same through a revised Declaration of Covenants;
- Provision for the acceptance of Redeveloper's Certification as to the Total Project Cost with respect to Section 7.02 on the Financial Agreement, evidencing the final construction costs, in lieu of a certification from the architect;
- Provision for the acceptance of the Owner's Statement and Redeveloper's Certification as to the Rent Control Exemption, as required under the Rent Control Law, evidencing eligibility for same and in lieu of the original filings of same.

WHEREAS, under *N.J.S.A. 2A:42-84.1 et seq.* (the "**Rent Control Act**"), upon the filing of certain documents with the Village, the Project was entitled to an exemption from the local rent control ordinance, which provides in pertinent part that "a new multiple dwelling may be exempt from provisions of municipal rent control or rent leveling ordinances "which limit the periodic or regular increases in base rentals of dwelling units . . . for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the multiple dwelling, or for 30 years following completion of construction, whichever is less"; and

WHEREAS, in addition, pursuant to Section 7.02 of the Financial Agreement, Third & Valley was required to file with the Village an Architect's Certification of Construction Cost for the Project; and

WHEREAS, Third & Valley is unable to locate such documents, and desires now to immediately correct these issues; and

WHEREAS, the Village having reviewed the matter, believes that under the circumstances, it would be reasonable and appropriate to accept the Redeveloper's Certification as to the Total Project Cost, and the Owner's Statement and Redeveloper's Certification as to the Rent Control Exemption, all as further set forth in the Fourth and Final Amendment; and

WHEREAS, Section 5.06 of the Redevelopment Agreement requires the Village to, among other things, issue the Redeveloper a Certificate of Completion for the Project, following the issuance of final Certificates of Occupancy and the satisfaction of the terms and conditions of the Redevelopment Agreement with respect to the Project; and

WHEREAS, the Village shall proceed with the issuance of the Certification of Completion when the requirements set forth in this Fourth and Final Amendment have been satisfied; and

WHEREAS, the Parties now desire to amend the Redevelopment Agreement in accordance with the aforementioned.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the Parties do hereby covenant and agree each with the other as follows:

1. **Amendment to List of Exhibits.** The list of Exhibits in the Redevelopment Agreement is hereby amended to include:

EXHIBIT I Revised Declaration of Covenants and Restrictions

EXHIBIT J Total Project Cost Certification

EXHIBIT K Promissory Note

EXHIBIT L Rent Control Exemption Filings; L(1) Owner's Statement and L(2) Redeveloper Certification as to Rent Control Exemption

EXHIBIT M Form of Certificate of Completion

2. **Amendment to Section 3.01.** Section 3.01 of the Redevelopment Agreement shall be amended and revised to read as follows:

"Covenants and Restrictions. Redeveloper shall record the Declaration of Covenants and Restrictions in the office of the Clerk of Essex County, New Jersey on the Closing Date. Notwithstanding the foregoing, Redeveloper shall record the Revised Declaration of Covenants in the office of the Clerk of Essex County, New Jersey within ten (10) days of the Effective Date of the Fourth and Final Amendment."

3. **Amendment to Section 5.06.** Section 5.06 of the Redevelopment Agreement shall be amended and revised to read as follows:

"5.06. Certificates of Occupancy and Certificates of Completion. (a) Upon Completion of Construction, Redeveloper shall apply to the Township for a Certificate of Occupancy.

(b) Following the issuance of the final Certificates of Occupancy and the satisfaction of the terms and conditions of this Redevelopment Agreement with respect to all or a portion of the Project, the Township agrees to issue a Certificate of Completion for the Project, or applicable portion thereof. The Certificate of Completion shall constitute a recordable conclusive determination of the satisfaction and termination of the agreements and covenants with respect to the Project in this Redevelopment Agreement and the Redevelopment Plan with respect to the obligations of Redeveloper to construct the Project within the dates for completion of same as set forth in the Project Schedule. Within 30 Days after written request by Redeveloper, the Township shall provide Redeveloper with the Certificate of Completion or a written statement setting forth in detail the reasons why it believes that Redeveloper has failed to complete the Project in accordance with the provisions of this Redevelopment Agreement or is otherwise in default under this or any other applicable agreement and what reasonable measures or acts will be necessary in the reasonable opinion of the Township in order for Redeveloper to be entitled to the Certificate of Completion. Notwithstanding anything to the contrary herein, the Village shall accept a total project cost audit prepared by the Redeveloper, in substantially the form attached hereto as **Exhibit J** (the “**Total Project Cost Certification**”, as evidence as to final construction costs for the Project, in lieu of an architect’s certification.

Notwithstanding anything to the contrary herein or in any Exhibits hereto, the Village shall issue a Certificate of Completion, in the form attached hereto as **Exhibit M**, in recordable form promptly upon satisfaction of the following:

- a) Delivery of the Promissory Note referenced below and the payment of the first \$500,000.00 due under said Promissory Note;
- b) Submission to the Village of a certification from a professional engineer, in proper form as required by the New Jersey Department of Environmental Protection, as to the water lateral service connections into the apartment building;
- c) Delivery to the Village of all certifications required from Redeveloper under this Fourth and Final Amendment;
- d) Execution and recordation of the Revised Declaration of Covenants and Restrictions;
- e) Resolution of the financial issues between the South Orange Parking Authority, ProPark and Redeveloper currently under discussion between those parties;
- f.) Resolution of the parking and loading zone violations/issue at the Project;
- g) Full funding of the Escrow Agreement between the Village and Redeveloper, including any replenishment required under same.

4. **Amendment to Section 5.09.** Section 5.09 of the Redevelopment Agreement shall be amended and revised to read as follows:

5.09. Affordable Housing Obligation. 21 of the residential rental units to be constructed shall be maintained as affordable housing (the “**Affordable Units**”), which the Township agrees to

apply towards satisfaction of the Township's obligations under the Fair Housing Act, whether under the rules of COAH or otherwise. Approximately 2 of the Affordable Units will be studios, approximately 3 of the Affordable Units shall be one-bedroom units, approximately 14 shall be two-bedroom units, and approximately 2 shall be three-bedroom units. For the purposes hereof, all of the Affordable Units shall be affordable to persons and families of low or moderate income within the meaning of the Fair Housing Act. Redeveloper shall also make a contribution to the Township of \$440,000 (the "**Offsite Affordable Housing Payment**") representing a financial contribution in respect of affordable housing constructed off site, payable 50% at Closing and 50% percent upon issuance of Certificates of Occupancy for 50% of the residential units in the Project. The Township agrees to be responsible for administration of affordable housing, including, but not limited to, making determinations of eligibility and priority of applicants with respect to the Affordable Units in the Project.

In addition to the Offsite Affordable Housing Payment, The Redeveloper shall make an additional contribution (the "**Additional Contribution**") to the Village in the total amount of One Million Dollars (\$1,000,000.00) in accordance with the terms and conditions the promissory note, attached hereto as **Exhibit K** (the "**Promissory Note**"). The Parties shall execute a Promissory Note within ten (10) days of the Effective Date of the Fourth and Final Amendment. The Parties obligations under the Promissory Note shall survive termination of the Redevelopment Agreement and shall be binding upon its successors and assigns.

Upon issuance of the Certificate of Completion in accordance herewith, and the conveyance of the Project by Redeveloper to a third party, Redeveloper shall be relieved of any obligation to provide the 21 Affordable Units referenced above and the Village shall look solely to the third party transferee for compliance with that covenant. The foregoing shall not relieve Redeveloper from its obligations under the Promissory Note, unless such Promissory Note is assigned to and assumed by, a third party.

5. **New Section 5.26.** A new Section 5.26 of the Redevelopment Agreement shall be added to read as follows:

5.26. Rent Control Exemption. The Township's Rent Control law, Ordinance No. 09-18, (the "Rent Control Ordinance") limits the periodic or regular increases in base rentals of dwelling units within the Township. Under N.J.S.A. 2A:42-84.1 et seq. (hereinafter, the "Rent Control Act") as new construction, the Project is entitled to an exemption (the "Rent Control Exemption") from the Rent Control Ordinance, for a period of up to thirty (30) years following the completion of the construction, upon certain filings with the Township. Notwithstanding anything to the contrary, the Village may accept the Owner's Statement and Certification as to Rent Control Exemption, in substantially the form attached hereto as **Exhibit L** (the "**Rent Control Exemption Filings**"), as evidence as to the filing and compliance with the Rent Control Act. The Rent Control Exemption shall be conferred upon the lawful successors or assigns of Third & Valley, in accordance with the Rent Control Act.

6. Other than as specifically modified by this Fourth and Final Amendment, all of the terms and conditions of the Redevelopment Agreement remain unmodified and in full force and effect.

7. Any inconsistencies or conflicts between the terms and provisions of the Redevelopment Agreement and the terms and provisions of this Fourth and Final Amendment shall be resolved in favor of the terms and provisions of this Fourth and Final Amendment.

8. This Fourth and Final Amendment may be executed and delivered in any number of counterparts (including by facsimile or by email in portable document format (pdf)), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9. The recitals set forth above are incorporated herein by this reference as if set forth at length.

[Signature Page(s) Follow]

IN WITNESS WHEREOF, the Parties have caused this Fourth and Final Amendment to the Redevelopment and Purchase and Sale Agreement to be properly executed and their corporate seals affixed and attested as of the date first written above.

Attest

TOWNSHIP OF SOUTH ORANGE VILLAGE

BY: _____

**Ojetti E. Davis,
Acting Village Clerk**

**Name: Sheena Collum
Title: Village President**

SEAL

Witness

THIRD & VALLEY URBAN RENEWAL, LLC

Name: _____
Title: _____

BY: _____
Name: _____
Title: _____

EXHIBIT I

Revised Declaration of Covenants and Restrictions

FORM OF REVISED DECLARATION OF COVENANTS AND RESTRICTIONS

Record and Return to:

Prepared by:

Joseph P. Baumann, Jr.

McMANIMON, SCOTLAND & BAUMANN, LLC

75 Livingston Avenue
Roseland, New Jersey 07068

Bhavini A. Doshi

DECLARATION OF COVENANTS AND RESTRICTIONS
Block 2304, Lot 5 (formerly Block 2304, Lots 3, 4, 5, 6, 7, 8, and 9)
In the
Township of South Orange Village (the "Property")

(Record in Mortgage Book)

This Declaration of Restrictions is made this _____ day of _____, 2021

by and between **THE TOWNSHIP OF SOUTH ORANGE VILLAGE, NEW JERSEY** (the "**Township**"), a public body corporate and politic of the State of New Jersey having its offices at 101 South Orange Avenue, South Orange, New Jersey 07079, in its capacity as redevelopment entity pursuant to N.J.S.A. 40A:12A-4(c);

and

THIRD & VALLEY URBAN RENEWAL, LLC, a [New Jersey] limited liability company having its principal place of business at c/o Jonathan Rose Companies, 551 Fifth Ave. 23rd Floor, New York, NY 10176 (together with permitted successors or assigns as hereinafter provided, referred to as the "**Redeveloper**");

W I T N E S S E T H

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented (the "**Act**"), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of rehabilitation; and

WHEREAS, the Governing Body duly adopted a resolution determining that a portion of the Township's Urban Enterprise Zone was an "area in need of rehabilitation" in accordance with the procedures and criteria in N.J.S.A. 40A:12A-14 of the Act; and

WHEREAS, the Governing Body adopted by ordinance a redevelopment plan for the rehabilitation area (the "**Redevelopment Plan**") in accordance with N.J.S.A. 40A:12A-7 of the Act; and

WHEREAS, in order to implement the development, financing, construction, operation and management of the Project, the Governing Body of the Township by duly adopted resolution

authorized the execution of a redevelopment agreement with the Redeveloper dated May 1, 2013 (the “**Redevelopment Agreement**”) in accordance with N.J.S.A. 40A:12A-8(f) of the Act; and

WHEREAS, N.J.S.A. 40A:12A-9(a) of the Act 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 contains such a covenant by the Redeveloper and its successor or assigns for as long as the Redevelopment Agreement remains in effect, as well as a perpetual covenants by the Redeveloper and its successor or assigns not to unlawfully discriminate upon the basis of age, race color creed, religion, ancestry, national origin, sex or familial status in the sale, lease, rental, use or occupancy of the Redevelopment Area or any building or structures erected thereon, to comply with Applicable Laws, Governmental Approvals, the Redevelopment Agreement and the Redevelopment Plan and to maintain in good condition any improvements made on the Property (as defined above) in accordance with Article 3 of the Redevelopment Agreement; and

WHEREAS, the Redevelopment Agreement also provides that the Property, the Redevelopment Agreement, and Redeveloper’s interest therein shall not be transferable, subject to certain conditions, prior to the issuance of a Certificate of Completion and further provides certain remedies to the Township for violations of the covenants and defaults under the Redevelopment Agreement; and

WHEREAS, the Redevelopment Agreement requires that such covenants be memorialized in a Declaration of Covenants and Restrictions and said declaration be recorded in the office of the Union County Register.

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:

(A) Redeveloper shall construct the Project on the Property in accordance with the Redevelopment Plan.

(B) Redeveloper shall not sell, lease or otherwise transfer all or any portion of the Property (other than to individual residential or retail tenants or as otherwise expressly permitted in this Redevelopment Agreement) without the written consent of the Township, which will not be unreasonably withheld, conditioned or delayed, provided however that the issuance of a Certificate of Completion for the Property shall constitute written approval for such sale or lease. For purpose of avoidance of doubt, nothing in this Redevelopment Agreement shall be deemed

to prohibit (i) the grant of utility or other easements related to the construction, use or occupancy of the Project; (ii) any lease, option agreement or contract of sale which provides for occupancy or closing to follow the issuance of a Certificate of Occupancy for the applicable portion of the Property; and/or (iii) the filing a master deed or declaration of covenants, conditions and restrictions to facilitate the construction, use or occupancy of the Project.

(C) Redeveloper shall, in connection with its use or occupancy of the Project, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Property is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status, and Redeveloper, its successors and assigns, shall comply with all Applicable Laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sexual orientation, sex or familial status.

(D) Redeveloper shall, upon Completion of Construction, obtain all Governmental Approvals required authorizing the occupancy and uses of the Property for the purposes contemplated hereby.

(E) Redeveloper shall develop, finance, construct, operate and maintain the Project at no expense to the Township and consistent with Applicable Laws, Governmental Approvals, the Redevelopment Plan, and this Redevelopment Agreement including the obligation to use commercially reasonable efforts to meet all deadlines and timeframes set forth in this Redevelopment Agreement.

(F) Redeveloper shall not encumber, hypothecate or otherwise use the Property, or any part thereof as collateral for any transaction unrelated to the Project.

(G) Redeveloper will promptly pay all outstanding Township Costs, and any and all taxes, service charges or similar obligations when owed to the Township with respect to the Property.

(H) The Redeveloper shall make an additional contribution to the Village, in the total amount of One Million Dollars (\$1,000,000.00), in accordance with that certain Promissory Note, dated _____, 2021, attached to the Fourth and Final Amendment to the Redevelopment Agreement, and incorporated herein by reference (the "Promissory Note").

Section 3. It is intended and agreed that the covenants and restrictions set forth in Section 2 of this Declaration shall run with the land and that they shall, 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 and this Declaration, be binding, to the fullest extent permitted by law and equity, for the benefit

and in favor of, and enforceable by, the Township, 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 Person in possession or occupancy of the Property or any part thereof. The covenants and restrictions herein shall be binding on Redeveloper itself, each successor in interest to Redeveloper and each party in possession or occupancy, respectively, only for such period as Redeveloper or such successor or party shall be in possession or occupancy of the Property, the Project or any part thereof.

Section 4. In amplification, and not in restriction, of the provisions of Section 2 of this Declaration, it is intended and agreed that the Township and its successors and assigns shall be deemed beneficiaries of the covenants and restrictions set forth in the Redevelopment Agreement and this Declaration, 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 covenants and restrictions have been provided. Such covenants and restrictions shall run in favor the Township for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein. The Township shall have the right, in the event of any material breach of any such covenant or restriction beyond the notice and cure periods set forth in Section 7.02(b) of the Redevelopment Agreement, which are incorporated herein by reference, to exercise all the rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of covenant or restrictions, to which it or any other beneficiaries of such agreement or covenant may be entitled.

Section 5. Upon redevelopment of the Property and completion of the Project, the covenants contained herein shall terminate and this Declaration will be discharged of record upon Redeveloper's receipt of a Certificate of Completion and termination of the Redevelopment Agreement, provided however, that the covenant in Section 2(C) hereof shall remain in effect without limitation as to time, and the covenant in Section 2(H) shall remain in effect until the obligations contained in the Promissory Note are fully satisfied by the Redeveloper, or its lawful successors and/or assigns.

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:

**TOWNSHIP OF SOUTH ORANGE
VILLAGE**

By: _____

Village Clerk

Village President

**THIRD & VALLEY URBAN
RENEWAL, LLC**

By:

Managing Member

EXHIBIT J

Redeveloper's Total Project Cost Certification

EXHIBIT K
Promissory Note

EXHIBIT L

Rent Control Exemption Filings

EXHIBIT M

Form of Certificate of Completion