

**SECOND AMENDMENT TO THE REDEVELOPMENT
AGREEMENT BY AND BETWEEN THE BOROUGH OF
DUNELLEN AND 120 – 126 NORTH AVENUE URBAN
RENEWAL, LLC**

THIS SECOND AMENDMENT TO REDEVELOPMENT AGREEMENT (“Second Amendment”) is made as of April ___, 2023 (the **“Effective Date”**) by and between **THE BOROUGH OF DUNELLEN** (the **“Borough”**), a municipal corporation of the State of New Jersey, having its offices at 355 North Avenue, Dunellen, New Jersey 08812 and **120-126 NORTH AVENUE URBAN RENEWAL LLC**, a New Jersey urban renewal redeveloper, having its offices at 5 Corporate Drive, Suite 100, Central Valley, New York 10917 (together with permitted successors or assigns as hereinafter provided, the **“Redeveloper”**, together with the Borough, the **“Parties,”** and each a **“Party”**).

W I T N E S S E T H

WHEREAS, the Borough Council of the Borough of Dunellen, in the County of Middlesex, New Jersey (the **“Borough”**) (the **“Borough Council”**), pursuant to the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the **“Redevelopment Law”**), and based upon the report and recommendation of the Dunellen Planning Board, designated, among others, certain property identified on the official Tax Maps of the Borough as Block 1, Lots 19, 20 and 21 as an “area in need of redevelopment” (collectively, the **“Project Site”**); and

WHEREAS, the Borough Council duly adopted a redevelopment plan for the Project Site, along with other properties, entitled, “Dunellen Downtown Redevelopment Plan Phase 1”, dated May 16, 2016 and most recently amended February, 2022, entitled “Amended and Restated Dunellen Downtown Redevelopment Plan Phase 1”, (as the same may be amended and supplemented from time to time, the **“Redevelopment Plan”**); and

WHEREAS, on March 1, 2021, the Borough Council adopted Resolution #5-B, naming the “North Avenue Portfolios LLC” as Conditional Redeveloper of the Project Site and authorizing the execution of a conditional redeveloper’s agreement with respect thereto; and

WHEREAS, the Redeveloper is a duly-formed corporation, an affiliate of North Avenue Portfolios, and was formed for the single purpose of initiating and conducting projects for the redevelopment of the Project Site pursuant to the Redevelopment Plan; and

WHEREAS, in order to effectuate the Redevelopment Plan and the redevelopment of the Property, on August 1, 2022, the Borough adopted Resolution No. 08-01-2022: #2, designating the Redeveloper as “redeveloper” of the Project Site and authorizing the execution of a Redevelopment Agreement with the Redeveloper (the **“Redevelopment Agreement”**) for the construction of one three-story building, containing a total of 33 residential units, consisting of 17 one-bedroom units, 14 two-bedroom units, and 2 three-bedroom units, including 5 units affordable to very low-, low- and moderate-income households; a ground floor commercial space

of 2,192 square feet; 35 surface parking spaces for use by the residents and visitors to the commercial space and including 8 electric vehicle charging stations as well as related, onsite amenities and site improvements on the Project Site (the “**Project**”); and

WHEREAS, the Redeveloper and the Borough executed the Redevelopment Agreement on September 7, 2022; and

WHEREAS, on February 6, 2023, the Borough Council adopted Resolution #02-06-2023 authorizing the Borough to enter into a First Amendment to the Redevelopment Agreement (the “**First Amendment**”);

WHEREAS, the Borough and Redeveloper now desire to amend the Redevelopment Agreement in order to clarify the number of parking spaces required by the Redevelopment Plan and the resulting required payment in lieu of parking calculation (the “**Second Amendment**”);

NOW, THEREFORE, in consideration of the promises, covenants and agreements set forth herein, the Parties hereto, binding themselves, as well as their successors and assigns, do hereby mutually promise, covenant and agree as follows:

Section 1. Definitions. All capitalized terms in this Second Amendment shall have the meaning set forth in the Redevelopment Agreement except as provided herein.

Section 2. Amendments. The Redevelopment Agreement is amended as follows (changes are underlined):

(a) The Sixth Whereas Clause:

WHEREAS, the Redeveloper has proposed to undertake the following actions, in accordance with the terms of this Agreement, the Redevelopment Plan and that certain Settlement Agreement defined below: (i) acquire the Project Site; (ii) design, develop, finance, construct, operate, and maintain a multi-use development including one, three-story building containing a total of 33 residential units consisting of 17 one-bedroom units, 14 two-bedroom units and 2 three-bedroom units, and including 5 units affordable to very low-, low- and moderate -income households, along with associated amenities and site improvements; (iii) a ground floor commercial space of 2,192 square feet; (iv) 35 surface parking spaces for use by the residents and visitors to the commercial space and including 8 (eight) electric vehicle charging stations (40 parking spaces are required by the Redevelopment Plan, therefore the Redeveloper will provide a payment in lieu of parking in accordance with Section 4.10 herein); (v) a Fifty Thousand Dollar (\$50,000.00) contribution to the Borough to be used for pedestrian safety upgrades; and (vi) construct all necessary on- and off-site infrastructure improvements, including streetscape improvements (items (i) through (vi), as more specifically described in Section 4.1 herein, collectively, the “**Project**” or “**Redevelopment Project**”); and

(b) **4.1 Redevelopment Project.**

The “**Redevelopment Project**” shall consist of: (i) acquisition of the Project Site; (ii) design, develop, finance, construct, operate, and maintain a multi-use development including one, three-story building containing 33 residential units consisting of 17 one-bedroom units, 14 two-bedroom units, and 2 three-bedroom units, and including 5 units affordable to very low-, low- and moderate- income households, along with associated amenities and site improvements; (iii) a ground floor commercial space of 2,192 square feet; (iv) 35 surface parking spaces for use by the residents and visitors to the commercial space and including eight (8) electric vehicle charging stations (40 parking spaces are required by the Redevelopment Plan, therefore the Redeveloper will provide a payment in lieu of parking in accordance with Section 4.10 herein); (v) a Fifty Thousand Dollar (\$50,000.00) contribution to the Borough to be used for pedestrian safety upgrades in accordance with Section 4.11 herein; and (vi) construct all necessary on- and off-site infrastructure improvements, including curb, sidewalk, and streetscape improvements, and decorative lighting to enhance and highlight said streetscape improvements, lighting to enhance the architecture of the building (commonly known as up and down lighting); features on the building to enhance a railroad theme, such as corbels and other iron-rail like features, all in accordance with the Redevelopment Plan and the Concept Plan. Redeveloper further agrees to utilize rain gardens and native species in the landscaping pieces of their open space on the Property and in the parking areas, as to be approved by the Planning Board. Redeveloper further agrees to pursue color themes other than grey tones, such as reds, greens, blues, and other earth tones.

The Redeveloper agrees to undertake the Redevelopment Project. The Redeveloper further agrees that, notwithstanding the Redevelopment Law, it is its sole responsibility to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of existing utilities, easements and parking spaces therefor, in order to complete the Redevelopment Project as provided by this Agreement. Redeveloper shall exercise reasonable efforts to ensure the effective coordination between the onsite and offsite Project Improvements and shall cooperate with the Borough to insure that the implementation of the Redevelopment Project does not interfere with the operation of the existing utilities, with an emphasis on the existing utilities, easements, surface parking areas and general business operations of the existing retail and commercial space that is currently occupied and is to remain. Redeveloper agrees to provide or cause to be provided all performance and maintenance bonds as required by Applicable Law, as further described at Section 4.3, below.

(c) **4.10 Payment in Lieu of Parking.**

The Redeveloper proposes to provide 35 off-street parking spaces as part of the Project. However, 40 off-street parking spaces are required pursuant to the Redevelopment Plan. In accordance with Section 8.13, paragraph 18 of the Redevelopment Plan, if a development is unable to meet the parking requirements of the Redevelopment Plan as a result of undue difficulty or hardship, the Borough may require a payment in lieu of parking to satisfy all or a portion of the parking deficit. Accordingly, the Redeveloper shall provide to the Borough a one-time payment in lieu of parking in the total amount of Fifty Thousand Dollars (\$50,000.00) (\$10,000.00 per parking space deficit) (the “**PILOP**”). Said PILOP shall be submitted by the Redeveloper to the Borough prior to application for the first construction permit for the Project. The PILOP will be paid into the Borough’s Parking Improvement Program Trust Fund. The Parties recognize that the off-street parking space requirement for the commercial use may be reduced by a maximum of

4 parking spaces in the event the Planning Board approves a shared parking arrangement. In the event the off-street parking space requirement for the commercial use is reduced, the PILOP shall also be reduced. In any event, the minimum PILOP shall be Thirty Thousand Dollars (\$30,000.00).

Section 3. Miscellaneous.

(a) Except as specifically modified by this Second Amendment, all other terms of the Redevelopment Agreement and First Amendment shall remain in full force and effect.

(b) The execution and delivery of this Second 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 Second Amendment shall be binding upon and inure to the benefit of the Parties thereto and their respective successors and assigns.

(c) This Second 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.

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

(e) This Second Amendment along with the First Amendment and the Redevelopment Agreement constitute the entire agreement between the Parties hereto and supersede all prior oral and written agreements between the Parties with respect to the subject matter hereof except as provided herein.

(f) This Second Amendment shall take effect as of the date that it is fully executed by the Parties.

(g) The Parties agree that the Redevelopment Agreement may be further amended should the professionals for both the Redeveloper and the Planning Board determine, during the course of the Planning Board process regarding the Project, that the required vs. the provided parking spaces pursuant to the Redevelopment Plan differ from what is set forth in this Second Amendment to the Redevelopment Agreement.

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IN WITNESS WHEREOF, the Parties hereto have executed this Second Amendment as of the date and year first above written.

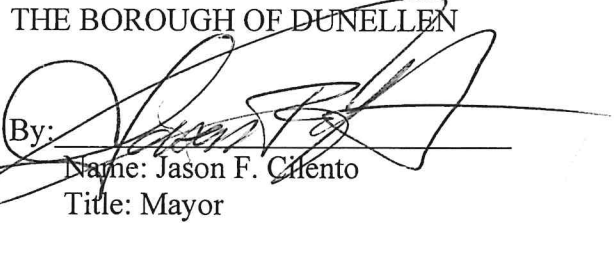
Attest:



William M. Robins, RMC
Borough Clerk

THE BOROUGH OF DUNELLEN

By:



Name: Jason F. Ciento
Title: Mayor

**120-126 NORTH AVENUE URBAN RENEWAL,
LLC**

By: _____

Mayer Gross, Managing Member

IN WITNESS WHEREOF, the Parties hereto have executed this Second Amendment as of the date and year first above written.

Attest:

THE BOROUGH OF DUNELLEN

William M. Robins, RMC
Borough Clerk

By: _____
Name: Jason F. Cilento
Title: Mayor

**120-126 NORTH AVENUE URBAN RENEWAL,
LLC**

By:  _____
Mayer Gross, Managing Member