Introduced: September 14, 2020

Adopted: October 12, 2020

THE TOWNSHIP OF SOUTH ORANGE VILLAGE

ORDINANCE #2020-20

ORDINANCE OF THE TOWNSHIP OF SOUTH ORANGE VILLAGE, COUNTY OF ESSEX, STATE OF NEW JERSEY APPROVING THE APPLICATION AND FINANCIAL AGREEMENT FOR TAX EXEMPTION OF MERIDIA SOUTH ORANGE 4 URBAN RENEWAL, LLC FOR AN URBAN RENEWAL PROJECT WITH RESPECT TO A PORTION OF VILLAGE LOCATED ON BLOCK 2303, LOTS 7, 8, 9, 10 AND 11

WHEREAS, the Township of South Orange Village, in the County of Essex, State of 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, on March 11, 2019, the Board of Trustees (the "Trustees") of the Village, adopted Resolution 2019-067 directing the Village Planning Board (the "Planning Board") to undertake an investigation to determine whether all or a portion of certain property identified on the tax maps of the Village as Block 2303, Lots 7, 8, 9, 10 and 11 constitute a condemnation area in need of redevelopment (the "Study Area") pursuant to the Redevelopment Law; and

WHEREAS, the Planning Board caused Topology (the "Planning Consultant") to conduct an investigation to determine whether the Study Area should be designated an area in need of redevelopment; and

WHEREAS, the Planning Board received a report setting forth the basis for the investigation and a map depicting the Study Area prepared by the Planning Consultant dated September 17, 2019, entitled, "Preliminary Investigation, 4th Street at Valley Street South Orange, NJ Block 2303, Lots 7, 8, 9, 10 +11" (the "Report"); and

WHEREAS, the Redevelopment Law requires the Planning Board to conduct a public hearing prior to making its recommendation to the Trustees as to whether the Study Area should be designated as a condemnation area in need of redevelopment, at which hearing the Planning Board shall hear all persons who are interested in or would be affected by a determination that the Study Area is an area in need of redevelopment; and

WHEREAS, the Planning Board held a duly noticed public meeting at which the Planning Board reviewed the Report, heard testimony from representatives of the Planning

Consultant, conducted a public hearing during which all persons who were interested in or would be affected by a determination regarding the Study Area the opportunity to be heard; and

WHEREAS, the Planning Consultant concluded in the Report and testified to the Planning Board on December 10, 2019 that the Study Area satisfies the criterion for a condemnation redevelopment area designation as set forth in the Redevelopment Law pursuant to *N.J.S.A.* 40A:12A-5; and

WHEREAS, after public hearings held on December 10, 2019, the Planning Board adopted a resolution accepting and adopting the recommendation contained in the Report, and recommending that the Study Area be declared a condemnation area in need of redevelopment in accordance with the Redevelopment Law for the reasons set forth in the Report; and

WHEREAS, on December 16, 2019, the Planning Board adopted a resolution memorializing its recommendation that the Study Area be designated as a condemnation area in need of redevelopment pursuant to the Redevelopment Law; and

WHEREAS, the Trustees agreed with the conclusion of the Planning Board that the Study Area satisfies the criterion for redevelopment area designation set forth in the Redevelopment Law and finds that such conclusion is supported by substantial evidence; and

WHEREAS, by virtue of Resolution 2020-029 adopted on January 21, 2020, the Trustees designated the Study Area as a condemnation redevelopment area as set forth in the Redevelopment Law (the "Redevelopment Area"); and

WHEREAS, pursuant to *N.J.S.A.* 40A:12-4, the Trustees have determined to act as the "redevelopment entity" (as such term is defined at *N.J.S.A.* 40A:12A-3 of the Redevelopment Law) for the Redevelopment Area; and

WHEREAS, the Trustees determined that the proposal of Meridia South Orange 4 Urban Renewal, LLC (the "Redeveloper") most closely aligns with the vision of the Village for the adaptive reuse of the Redevelopment Area; and

WHEREAS, by Ordinance 2020-12 adopted on June 8, 2020 the Trustees conditionally adopted the redevelopment plan titled the "*4th and Valley Redevelopment Plan*" dated April 8, 2020 (the "**Redevelopment Plan**"), contingent upon receipt of the Planning Board's approval of the of the Redevelopment Plan; and

WHEREAS, the Redeveloper is the owner of property located within the Redevelopment Area and identified on the official tax maps of the Village as Block 2303, Lots 7, 8, 9, 10 and 11 (the "Property"), has submitted to the Village its plans for the redevelopment of the Property for review and consideration (the "Project"); and

WHEREAS, the Property is subject to the Redevelopment Plan which was duly adopted by the Planning Board pursuant to the Redevelopment Law and in accordance with the procedures set forth therein; and

WHEREAS, as of the final adoption of this ordinance, Redeveloper has been designated by the Village as the redeveloper for the Property; and

WHEREAS, the Village recognizes that the involvement of Redeveloper in this effort will ensure that residents of the Village will benefit from the expertise of the private sector in facilitating successful redevelopment of the Property; and

WHEREAS, the Redevelopment Law authorizes the redevelopment entity to arrange or contract for the planning, construction or undertaking of any development project or redevelopment work in an area designated as "an area in need of redevelopment" pursuant to N.J.S.A. 40A:12A-8; and

WHEREAS, in order to implement the development, financing, construction, operation and management of the Project the Village and the Redeveloper shall enter into a Redevelopment Agreement (the "**Redevelopment Agreement**"); and

WHEREAS, the Village has determined that the Redeveloper possesses the proper qualifications, financial resources and capacity to implement and complete the Project in accordance with the Redevelopment Plan, and all other Applicable Laws, ordinances and regulations; and

WHEREAS, the Village has determined that the redevelopment of the Property in accordance with applicable provisions of the Redevelopment Plan will contribute to the redevelopment and reinvigoration of the Village and to the social and economic improvement of the Village in accordance with the legislative intent, goals and objectives of the Redevelopment Law; and

WHEREAS, despite the Redeveloper's substantial investment of equity and borrowed funds, such amounts are insufficient to pay for all the costs associated with the Project; and

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

WHEREAS, in order to enhance the economic viability of an opportunity for a successful project, the Redeveloper has submitted an application for the approval of the Project (the "Exemption Application") and a form of financial agreement (the "Financial Agreement") to the Village for the approval of an urban renewal project, all in accordance with *N.J.S.A.* 40A:20-8; and

WHEREAS, pursuant to *N.J.S.A.* 40A:20-8, the Village President has reviewed the Exemption Application and, by a letter dated September 14, 2020, a copy of which is on file with the Village Clerk (the "President's Recommendation"), the Village President has submitted the Exemption Application and Financial Agreement to the Trustees with her recommendation for approval, subject to the condition that the Redeveloper pay, in lieu of tax payments on the Project, an annual service charge; and

WHEREAS, upon review of the proposed Project, the Exemption Application and the President's Recommendation, the Village has made the following findings with respect to the Project pursuant to *N.J.S.A.* 40A:20-11:

1. The Project will (a) generate both temporary construction jobs and permanent jobs, (b) generate significant amounts of new municipal revenues through the Annual Service

Charge and water/sewer fees, and (c) is a transit-oriented development that furthers smart growth norms, and will substantially enhance the viability and vitality of the Village's downtown;

2. Given the uncertainty and instability of current economic and market conditions, the investment risk makes the financing of the Project infeasible in the absence of a tax exemption provided by the Village;

3. The Project is consistent with the Redevelopment Plan, will further its objectives and will contribute to the economic growth of the Village; and

4. The Financial Agreement was a material inducement to the Redeveloper to undertake the Project in the Village and facilitate the redevelopment of the Project; and

WHEREAS, in accordance with the provisions of the LTTE Law, the Village desires to approve the Project, the Exemption Application and the Financial Agreement.

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 Exemption Application submitted by the Redeveloper is hereby approved in accordance with Section 8 of the LTTE Law.

Section 3. The Village President, in consultation with counsel to the Village, is hereby authorized to execute the Financial Agreement and prepare, amend or execute any other agreements necessary to effectuate this ordinance, all subject to modification or revisions, as deemed necessary and appropriate.

Section 4. The Clerk of the Village is hereby authorized and directed, upon execution of the Financial Agreement by the Village President, to attest to the signature of the Village President and to affix the corporate seal of the Village upon such document.

Section 5. Any exemption from taxation as set forth in the Financial Agreement is hereby granted to the Redeveloper, with respect to the Project for fifteen (15) years. In no event shall the term of the Financial Agreement exceed the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) to the extent permitted by the LTTE Law, twenty-five (25) years from the Annual Service Charge Start Date (as defined in the Financial Agreement) for the Project and only so long as the Redeveloper remains subject to and in compliance with the Financial Agreement and the LTTE Law and; provided further, that the Redeveloper does not file a petition of tax appeal for the Project or any part thereof.

Section 6. The executed copy of the Financial Agreement shall be certified by and filed with the Office of the Village Clerk. Further, the Village Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Village and the Director of the Division of Local Government Services with the Department of Community Affairs, in accordance with Section 12 of the LTTE Law.

Section 7. The Project shall conform with all federal, state and Village laws, ordinances and regulations relating to its construction and use.

Section 8. The Redeveloper shall, in the operation of the Project, comply with all laws so that no person of race, religious principles, color, national origin or ancestry will be subject to discrimination.

Section 9. The Redeveloper shall, from the time, as the Annual Service Charge becomes effective under the Financial Agreement, pay to the Village the estimated quarterly Annual Service Charge for the Project until the correct amount due from the Redeveloper is determined by the certified financial audit report, required to be submitted under the terms of the Financial Agreement. After the report has been accepted by the Village and within ninety (90) days thereafter, the Village and the Redeveloper shall adjust any over or underpayment so made or required to be made for the period covered by the certified audit report.

Section 10. This ordinance shall take effect in accordance with all applicable laws.

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Introduction – First Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Clarke						X
Coallier			X			
Hartshorn Hilton			X			
Jones			X			
Schnall		X	X			
Zuckerman	X		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 Ordinance was introduced on first reading by the Board of Trustees at their regular meeting held on Monday, September 14, 2020.

Ojetti E. Davis
Acting Village Clerk

Adoption – Second Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Clarke			X			
Coallier			X			
Hartshorn Hilton			X			
Jones			X			
Schnall		X	X			
Zuckerman	X		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 Ordinance was adopted on second reading by the Board of Trustees at their regular meeting held on Monday, October 12, 2020.

Ojetti E. Davis
Acting Village Clerk

Adopted:

Sheena C. Collum, Village President

Attest:

Ojetti E. Davis, Acting Village Clerk