

FIRST AMENDMENT TO 1140 BROADWAY DEVELOPMENT AGREEMENT

THIS First Amendment (“Amendment”) to the 1140 Broadway Development Agreement, is made and entered into this _____ day of _____, 2023, by and between the City of Ann Arbor, a Michigan municipal corporation, with principal address at 301 East Huron Street, Ann Arbor, Michigan 48107 (“CITY”), and Morningside Broadway LLC, a Michigan limited liability company (“Broadway”), Morningside Nine99, LLC, a Michigan limited liability company (“Nine99”), and Morningside Maiden Lane, LLC, a Michigan limited liability company (“Maiden Lane”) with principal address at 223 West Erie, Third Floor, Chicago, Illinois 60654, (Broadway, Nine99 and Maiden Lane are collectively the “DEVELOPER”). This Amendment modifies the 1140 Broadway Development Agreement between the City and a predecessor developer, Morningside Lower Town, LLC (“Lower Town”), dated April 24, 2018, recorded in Liber 5281, Page 623, Washtenaw County Records (“Development Agreement”) regarding certain land in the City of Ann Arbor more particularly described in Exhibit A (“Property”).

Whereas, Lower Town received site plan approval for the 1140 Broadway Planned Project Site Plan (“Site Plan”) on the Property on December 4, 2017;

Whereas, the DEVELOPER is the current owner of the PROPERTY and has been assigned interest in the Development Agreement by Lower Town;

Whereas, the DEVELOPER has increased the number of dwelling units planned for the Site Plan from 617 to 736;

Whereas, the DEVELOPER requests amendment to the Development Agreement consistent with the increase in the number of dwelling units on the site;

Therefore, the CITY and the DEVELOPER agree to amend the Development Agreement as follows:

Paragraph (P-13) of the Development Agreement shall be replaced with the following:

(P-13) For the benefit of the residents of the development, to make a park contribution to the CITY Parks and Recreation Services Unit prior to issuance of certificates of occupancy for improvements to Riverside Park, the Farmers Market, Argo Canoe Livery, Broadway Park, or other facilities that would improve recreational opportunities for the residents of the development. The CITY acknowledges that the developer has previously paid the CITY \$337,500 for buildings A-1 and C (\$21,000 by providing an access easement, \$137,750 in City FY 2021, and \$178,750 in City FY 2023) toward the park contribution. The remainder of the park contribution of \$625 for each building B unit shall be paid prior to receiving a certificate of occupancy for that unit. (The total

contribution may fluctuate based on final project configuration, but is currently a total of \$460,000 for all phases based on a total of 736 dwellings.)

All terms, conditions, and provisions of the Development Agreement, unless specifically modified above, are to apply to this Amendment and are made a part of this Amendment as though expressly rewritten, incorporated, and included herein.

CITY OF ANN ARBOR, MICHIGAN
301 East Huron Street
Ann Arbor, Michigan 48107

By: _____
Christopher Taylor, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Milton Dohoney Jr., City Administrator

Approved as to Form:

Atleen Kaur, City Attorney

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Christopher Taylor, Mayor, and Jacqueline Beaudry, Clerk of the City of Ann Arbor, a Michigan municipal corporation, on behalf of the corporation.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____

MORNINGSIDE MAIDEN LANE, LLC

By: Morningside Lower Town Holdings, LLC
its Manager

By: _____
Ronald Mucha, Authorized Signatory

STATE OF MICHIGAN)
) ss
County of Washtenaw)

The foregoing Agreement was acknowledged before me this _____ day of _____, 2023 by Ronald Mucha, authorized signatory of Morningside Maiden Lane, LLC, a Michigan limited liability company, on behalf of the company.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
Acting in the County of Washtenaw
My Commission Expires:

Drafted by and after recording return to:
Kevin S. McDonald (P-61761)
Chief Deputy City Attorney
City of Ann Arbor, Office of the City Attorney
P.O. Box 8647
Ann Arbor, MI 48107-8647

Exhibit A

In the City of Ann Arbor, Washtenaw County:

Beginning at the Westerly corner of Lot 78 of ASSESSOR'S PLAT NO. 33, as recorded in Liber 9, Page 46 of Plats, Washtenaw County Records; thence Northeasterly along the Southerly right-of-way line of Broadway Street (variable width) in the following four (4) courses: (1) N 57°48'00" E 564.63 feet, (2) N 01°45'27" E 20.50 feet, (3) N 57°48'00" E 25.88 feet and (4) N 58°18'42" E 33.55 feet (recorded as N 58°18'00" E); thence along the centerline of Traver's Creek in the following four (4) courses: (1) S 22°41'48" E 13.78 feet (recorded as S 22°42'30" E), (2) S 52°07'48" E 51.77 feet (recorded as S 52°08'30" E), (3) S 65°43'18" E 29.31 feet (recorded as S 65°44'00" E) and (4) S 73°04'18" E 50.81 feet (recorded as S 73°06'00" E);

thence N 37°31'42" E 25.40 feet (recorded as N 37°31'00" E);

thence S 79°25'00" E 177.53 feet along the Northeasterly line of Lot 25 of ASSESSOR'S PLAT NO. 32, as recorded in Liber 9, Page 45 of Plats, Washtenaw County Records;

thence S 31°16'00" W 410.58 feet along the Northwesterly line of Ross Maiden Lane Apartments;

thence S 58°44'00" E 74.99 feet;

thence S 31°16'00" W 255.50 feet along the West right-of-way line of Nielsen Court;

thence N 58°44'00" W 653.70 feet along the Northerly right-of-way line of Maiden Lane to the Point of Beginning. Being Lots 25 through 30 ASSESSOR'S PLAT NO. 32, as recorded in Liber 9, Page 45 of Plats, Washtenaw County Records and Lots 72 through 82, inclusive, Lots 83 through 87, inclusive and a vacated alley of ASSESSOR'S PLAT NO. 33, as recorded in Liber 9, Page 46 of Plats, Washtenaw County Records.

Now known as:

LEGAL DESCRIPTION OF A PARCEL OF LAND LOCATED IN THE SOUTHWEST ¼ OF SECTION 21, TOWN 2 SOUTH, RANGE 6 EAST, CITY OF ANN ARBOR, WASHTENAW COUNTY, MICHIGAN

COMMENCING at the Westerly corner of Lot 78 of ASSESSOR'S PLAT NO. 33, as recorded in Liber 9, Page 46 of Plats, Washtenaw County Records; thence Northeasterly along the Southerly right-of-way line of Broadway Street (variable width) N 57°48'00"E 327.33 feet to the POINT OF BEGINNING;

thence continuing Northeasterly along the Southerly right-of-way line of Broadway Street (variable width) in the following four (4) courses:

(1) N 57°48'00" E 237.30 feet,

(2) N 25°54'20" E 32.17 feet,

(3) N 57°48'00" E 10.02 feet

and (4) N 58°18'42" E 33.55 feet (recorded as N 58°18'00" E);

thence along the centerline of Traver's Creek in the following four (4) courses:
(1) S 22°41'48" E 13.78 feet (recorded as S 22°42'30" E),
(2) S 52°07'48" E 51.77 feet (recorded as S 52°08'30" E),
(3) S 65°43'18" E 29.31 feet (recorded as S 65°44'00" E)
and (4) S 73°04'18" E 50.81 feet (recorded as S 73°06'00" E);
thence N 37°31'42" E 25.40 feet (recorded as N 37°31'00" E);
thence S 79°25'00" E 177.53 feet along the Northeasterly line of Lot 25 of ASSESSOR'S
PLAT NO. 32, as recorded in Liber 9, Page 45 of Plats, Washtenaw County Records;
thence S 31°16'00" W 410.58 feet along the Northwesterly line of Ross Maiden Lane
Apartments;
thence S 58°44'00" E 74.99 feet;
thence S 31°16'00" W 29.50 feet along the West right-of-way line of Nielsen Court;
thence N 58°44'00" W 274.67 feet;
thence N 31°16'00" E 24.98 feet;
thence N 58°44'00" W 148.80 feet;
thence N 32°14'33" W 93.87 feet to the POINT OF BEGINNING. Being part of Lot 25 and
Lots 29 and 30, of ASSESSOR'S PLAT NO. 32, as recorded in Liber 9, Page 45 of Plats,
Washtenaw County Records and part of Lots 82, 84 and 85 and Lots 86 and 87, and a
vacated alley of ASSESSOR'S PLAT NO. 33, as recorded in Liber 9, Page 46 of Plats,
Washtenaw County Records.

Parcel ID# 09-09-21-302-120

And

LEGAL DESCRIPTION OF A PARCEL OF LAND LOCATED IN THE SOUTHWEST ¼ OF
SECTION 21, TOWN 2 SOUTH, RANGE 6 EAST, CITY OF ANN ARBOR,
WASHTENAW COUNTY, MICHIGAN

Commencing at the Westerly corner of Lot 78 of ASSESSOR'S PLAT NO. 33, as recorded in
Liber 9, Page 46 of Plats, Washtenaw County Records; thence Northeasterly along the
Southerly right-of-way line of Broadway Street (variable width)
N 57°48'00" E 15.38 feet to the POINT OF BEGINNING;

thence continuing Northeasterly along the Southerly right-of-way line of Broadway Street
(variable width) N 57°48'00" E 228.61 feet;
thence S 32°12'00" E 13.00 feet;
thence N 57°48'00" E 68.00 feet;
thence N 32°12'00" W 13.00 feet;
thence continuing Northeasterly along the Southerly right-of-way line of Broadway Street
(variable width) N 57°48'00" E 15.34 feet;
thence S 32°14'33" E 93.87 feet;
thence S 58°44'00" E 148.80 feet;
thence S 31°16'00" W 250.98 feet;
thence N 58°44'00" W 288.47 feet along the Northerly right-of-way line of Maiden Lane (50'
feet wide)
thence N 43°59'08" W 43.21 feet;
thence N 58°43'59" W 36.37 feet;
thence N 32°12'00" W 6.19 feet to the POINT OF BEGINNING. Being part of Lots 75, 83,
and 85, and Lots 76 through 82, inclusive, and part of Lots 84 and a vacated alley of
ASSESSOR'S PLAT NO. 33, as recorded in Liber 9, Page 46 of Plats, Washtenaw County

Records and containing 1.84 acres of land, more or less. Subject to easements and restrictions of record, if any.

Parcel ID#: 09-09-21-302-119

And

LEGAL DESCRIPTION OF A PARCEL OF LAND LOCATED IN THE SOUTHWEST ¼ OF SECTION 21, TOWN 2 SOUTH, RANGE 6 EAST, CITY OF ANN ARBOR, WASHTENAW COUNTY, MICHIGAN

Beginning at the Westerly corner of Lot 78 of ASSESSOR'S PLAT NO. 33, as recorded in Liber 9, Page 46 of Plats, Washtenaw County Records; thence southeasterly along the northerly right-of-way line of Maiden Lane (50 feet wide) S 58°44'00" E 379.03 feet to the POINT OF BEGINNING;

thence N 31°16'00" E 226.00 feet;

thence S 58°44'00" E 274.67 feet;

thence along the westerly right-of-way line of Nielson Court (50 feet wide)

S 31°16'00" W 226.00 feet;

thence along said northerly line of Maiden Lane N 58°44'00" W 274.67 feet to the POINT OF BEGINNING. Being Lots 72 thru 74, inclusive, and part of Lots 75, 83, and 85, and a vacated alley of ASSESSOR'S PLAT NO. 33, as recorded in Liber 9, Page 46 of Plats, Washtenaw County Records, also being Lots 26 thru 28, inclusive, and part of Lot 25 of ASSESSOR'S PLAT NO. 32, as recorded in Liber 9, Page 45 of Plats, Washtenaw County Records and containing 1.43 acres of land, more or less. Subject to easements and restrictions of record, if any.

Parcel ID# 09-09-21-302-207