



**Asbury Park, New Jersey
ORDINANCE NO. 2024-16**

ORDINANCE OF THE CITY OF ASBURY PARK AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH PHM SUNSET SQUARE URBAN RENEWAL LLC CONCERNING PROPERTY LOCATED AT BLOCK 4205 LOTS 2 AND 3 ON THE TAX MAP OF THE CITY OF ASBURY PARK AND GRANTING A TAX EXEMPTION

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Act”) authorizes municipalities to determine whether certain parcels of land in the municipality qualify as areas “in need of redevelopment”; and

WHEREAS, the Act confers certain contract, planning, and financial powers upon a Redevelopment Entity, as that term is defined in the Act, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the City of Asbury Park (the “City”), in the County of Monmouth, State of New Jersey, has elected to exercise these redevelopment entity powers directly, as permitted by Section 4 of the Act; and

WHEREAS, on June 5, 2002, the City adopted the “Asbury Park Waterfront Redevelopment Plan (Plan IV)” (as amended and supplemented from time to time, the “Redevelopment Plan”) with respect to the “Asbury Park Waterfront Redevelopment Area,” as defined in the Redevelopment Plan (the “Redevelopment Area”); and

WHEREAS, pursuant to the Act, including Section 8 thereof (N.J.S.A. 40A:12A-8), a municipality is permitted to contract with a redeveloper to undertake redevelopment projects pursuant to a redevelopment plan within an area in need of redevelopment, as all such terms are defined in the Act; and

WHEREAS, the City and Asbury Partners, LLC (the “Master Developer”) entered into that certain “Amended and Restated Redeveloper and Land Disposition Agreement” dated October 28, 2002 (as the same has been amended and supplemented in accordance with its terms, the “Redeveloper Agreement”); and

WHEREAS, the Master Developer has with entered into a Subsequent Developer Agreement with PHM Sunset Square Urban Renewal LLC, as the Subsequent Developer, and the City, dated August 28, 2023, pursuant to which the Subsequent Developer assumed certain rights and obligations of the Master Developer; and

WHEREAS, in accordance with the Redeveloper Agreement and the Redevelopment Plan, PHM Sunset Square Urban Renewal LLC (the “Entity”) intends to develop and construct a building consisting of a twenty-eight (28) unit residential project to be constructed on the

Property and consists of twenty-eight (28) 3-story stacked townhouses in two (2) fourteen (14) unit structures, each with a parking garage and between two (2) to three (3) bedrooms, together with related improvements and related site improvements on property identified as Block 4205, Lots 2 and 3 on the official tax map of the City of Asbury Park (the “Project”) and located in the Redevelopment Area (the “Land”); and

WHEREAS, the Entity has been qualified by the State of New Jersey to do business as an urban renewal entity under the provisions of the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. (the “LTTE Law”), and was created for the development, operation and maintenance of the Project; and

WHEREAS, in order to improve the feasibility of the construction, operation and maintenance of the Project, the Entity made application to the City, dated February 28, 2024, requesting a long term tax exemption and financial agreement with respect to the Project (the “Application”) pursuant to the LTTE Law, which Application is on file with the City Clerk; and

WHEREAS, the Entity has represented to the City that the Project would not be feasible in its intended scope but for the provision of financial assistance by the City; and

WHEREAS, after review of the Application, the City Manager recommended that the Application be approved on such terms as set forth in a proposed form of financial agreement (the “Financial Agreement”) substantially in the form attached hereto as Exhibit A, and by this reference incorporated herein, as may be modified in consultation with counsel as set forth herein, and

WHEREAS, the City Council has reviewed the Application and the terms of the Financial Agreement, and wishes to approve the Application on such terms, subject to the designation of the Entity as a Subsequent Developer, as such term is defined in the Redeveloper Agreement, and the execution of an agreement with the Entity as a Subsequent Developer in accordance with the Redeveloper Agreement, which is expected to occur simultaneously herewith; and

WHEREAS, the City hereby finds that the relevant benefits of the Project to the redevelopment of the Redevelopment Area outweigh the costs, if any, associated with the tax exemption, and in fact increase City revenues over current levels by granting the long term tax exemption for the Project, which relevant benefits are further described in the Application and the Financial Agreement; and

WHEREAS, the City hereby determines that the assistance provided to the Project pursuant to the Financial Agreement will be a significant inducement for the Entity to proceed with the Project and that based on information set forth in the Application, the Project would not be feasible without such assistance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the City Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey as follows:

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

II. EXECUTION OF FINANCIAL AGREEMENT AUTHORIZED. (a) The Mayor is hereby authorized and directed to execute the Financial Agreement, substantially in the form as it has been presented to the City Council, and attached hereto as Exhibit A, subject to additions, deletions, modifications, or revisions deemed necessary and appropriate in consultation with counsel. (b) The Clerk of the City is hereby authorized and directed, upon the execution of the Financial Agreement 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 City upon such document. (c) The City Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the City. In accordance with P.L. 2015, c. 247, within ten calendar days following the later of the effective date of this Ordinance or the execution of the Financial Agreement by the Entity, the City Clerk also shall transmit a certified copy of this Ordinance and the Financial Agreement to the chief financial officer of Monmouth County and to the Monmouth County Counsel for informational purposes.

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. ACTION REGARDING FINANCIAL AGREEMENT. The Mayor is hereby authorized and directed to determine all matters and terms in connection with the Financial Agreement, all in consultation with the counsel to the City, and the manual or facsimile signature of the Mayor upon any documents shall be conclusive as to all such determinations. The Mayor, the City Manager, the Chief Financial Officer, the City Clerk and any other City official, officer or professional, including but not limited to, redevelopment counsel, bond counsel, the financial advisor and the auditor to the City, are each hereby authorized and directed to execute and deliver such documents as are necessary to facilitate the transactions contemplated hereby, and to take such actions or refrain from such actions as are necessary to facilitate the transactions contemplated hereby, in consultation with, as applicable, redevelopment counsel, bond counsel, the financial advisor and the auditor to the City, and any and all actions taken heretofore with respect to the transactions contemplated hereby are hereby ratified and confirmed.

V. AVAILABILITY OF THE ORDINANCE. A copy of this Ordinance shall be available for public inspection at the offices of the City.

VI. EFFECTIVE DATE. This Ordinance shall take effect according to law.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2024-16 which was finally adopted by the City Council at a meeting held on the 8th day of May, 2024



LISA ESPOSITO
CITY CLERK

✓ Vote Record - Ordinance 2024-16						
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Withdrawn <input type="checkbox"/> Introduced			Yes/Aye	No/Nay	Abstain	Absent
	Angela Ahbez-Anderson	Mover	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Eileen Chapman	Second	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yvonne Clayton	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Amy Quinn	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	John Moor	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>