

O-23-11  
3/15/23

**THIS ORDINANCE SECURES OBLIGATIONS IN ACCORDANCE WITH THE PROVISIONS OF THE "REDEVELOPMENT AREA BOND FINANCING LAW" AND THE LIEN HEREOF IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-MUNICIPAL LIENS IN ACCORDANCE WITH THE SPECIAL ASSESSMENT AGREEMENT HEREBY AUTHORIZED**

**ORDINANCE OF THE CITY OF BAYONNE, COUNTY OF HUDSON, STATE OF NEW JERSEY, PROVIDING FOR THE SPECIAL ASSESSMENT OF THE COST OF CERTAIN IMPROVEMENTS ON CERTAIN PROPERTY IDENTIFIED AS BLOCK 332, LOT 3, BLOCK 360, LOT 2, BLOCK 390, LOTS 1 AND 2 (A.K.A. RG67), AND BLOCK 391, LOTS 1 AND 2**

**WHEREAS**, the City of Bayonne, in the County of Hudson, New Jersey (the "**City**"), 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 City constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

**WHEREAS**, in August 2003, the Municipal Council of the City (the "**Governing Body**"), acting in accordance with the Redevelopment Law adopted a resolution declaring property identified as Block 332, Lot 3, Block 360, Lot 2, Block 373, Lots 1, 2, 13, 14, and 15, Block 390, Lots 1 and 2 (a.k.a. RG67), and Block 391, Lots 1 and 2, and Block 511, Lots 5 and 6, as an "area in need of redevelopment" (collectively, the "**Texaco Redevelopment Area**"); and

**WHEREAS**, Togus Urban Renewal, LLC (the "**Entity**") is the fee title owner to the following properties within the Texaco Redevelopment Area: Block 332, Lot 3, Block 360, Lot 2; Block 390, Lots 1 and 2 (a.k.a. RG67); and Block 391, Lots 1 and 2 (the "**Property**"); and

**WHEREAS**, the Governing Body adopted a redevelopment plan for the Texaco Redevelopment Area entitled "Redevelopment Plan Texaco Redevelopment Area" and dated January 2004 (the "**Original Redevelopment Plan**"); and

**WHEREAS**, following the Original Redevelopment Plan's adoption, the "Amended and Restated Redevelopment Plan, Texaco Redevelopment Area, City of Bayonne, Hudson County, New Jersey" (the "**Amended and Restated Redevelopment Plan**") dated September 8, 2015, was prepared for the Governing Body's consideration; and

**WHEREAS**, the Planning Board of the City (the "**Planning Board**") reviewed the Amended and Restated Redevelopment Plan on September 8, 2015 and adopted a resolution recommending the adoption of the Amended and Restated Redevelopment Plan to the Governing Body and concluded that the Amended and Restated Redevelopment Plan is consistent with the Master Plan of the City; and

**WHEREAS**, on September 16, 2015, the Governing Body adopted Ordinance No. O-8 approving the Amended and Restated Redevelopment Plan, which superseded and replaced the Original Redevelopment Plan; and

**WHEREAS**, on June 19, 2019, the Governing Body adopted Ordinance No. O-19-41 authorizing an amendment to the Amended and Restated Redevelopment Plan, to include billboards as a permitted use, which amendment was entitled the “Amended Redevelopment Plan, Texaco” dated May 15, 2019 (“**Amendment No. 1**”); and

**WHEREAS**, on October 21, 2020, the Governing Body adopted Ordinance O-20-54, approving a redevelopment plan, entitled “Amended Redevelopment Plan Texaco Redevelopment Area” dated September 2020 (the “**Redevelopment Plan**”) for the Texaco Redevelopment Area which amended and superseded the Original Redevelopment Plan, Amended and Restated Redevelopment Plan, and Amendment No. 1; and

**WHEREAS**, on December 16, 2020, the City adopted Resolution R-15 authorizing the negotiation and preparation of a redevelopment agreement with the Entity for the redevelopment of the Property; and

**WHEREAS**, Resolution R-15 also authorized the negotiation of a redevelopment agreement with the Entity (the “**Redevelopment Agreement**”); and

**WHEREAS**, the Redevelopment Agreement provides in relevant part that the Entity proposes to construct the Project (as defined in the Redevelopment Agreement) on the Property in accordance with the Redevelopment Agreement and the Redevelopment Plan, including Improvements (as defined in the Financial Agreement) which constitute redevelopment projects to be undertaken pursuant to the Redevelopment Plan, all as contemplated by the Redevelopment Law and *N.J.S.A. 40A:12A-64 et seq.* (the “**Bond Financing Law**”); and

**WHEREAS**, the Entity applied to the Mayor and Governing Body for a long term tax exemption for the Project in accordance with the Long Term Tax Exemption Law and the Bond Financing Law pursuant to an application dated January 26, 2022 (as amended and supplemented, the “**Application**”), which is on file with the City Clerk; and

**WHEREAS**, by an ordinance simultaneously adopted with this this special assessment ordinance, the Application was approved by the City and a financial agreement has been authorized (the “**Financial Agreement**”); and

**WHEREAS**, in order to finance and facilitate the implementation of the Project, including the Improvements upon the Property, the City and the Entity have established a financial structure which includes (i) entry into the Financial Agreement providing for a payment in lieu of taxes; (ii) the issuance of bonds to finance the redevelopment of the Property in accordance with the Bond Financing Law; (iii) payment of a special assessment to the City by the Entity and (iv) provision of a letter of credit; and

**WHEREAS**, in order to effectuate this financial structure and the implementation of the Project, including the certain public and related infrastructure improvements, the City has determined that a portion

of the cost of the Improvements should be assessed in accordance with the Local Improvements Law, *N.J.S.A. 40:56-1 et seq.* (the "**Local Improvements Law**"), and the Bond Financing Law and the terms of the hereinafter defined Special Assessment Agreement.

**NOW THEREFORE**, be it ordained that the City Council of the City of Bayonne does hereby adopt the tax exemptions for the Entity as follows:

**Section 1.** The defined terms set forth in the recitals contained in this Ordinance are incorporated by reference as it is set forth at length herein.

**Section 2.** The purpose of this special assessment ordinance is to establish a mechanism for imposing special assessments of all or a portion of the cost of the Improvements to be developed, financed and constructed on or benefitting the Property in accordance with the requirements of the Redevelopment Agreement. The Improvements will consist of the design, financing, construction and installation of the various Improvements further described in the Redevelopment Agreement, Financial Agreement and Special Assessment Agreement.

**Section 3.** Notice is hereby given to the owners of the Property that the City intends to make and levy special assessments against all such Property in the amount and at the time set forth in the Special Assessment Agreement. The estimated aggregate cost of such Improvements for the Property subject to this ordinance is \$65,000,000.00, provided that the special assessments for any Property affected by this ordinance shall be made and levied in the manner provided by law and shall be as nearly as possible in proportion to and not in excess of the peculiar benefit, advantage or increase in value that the Property shall be deemed to receive by reason of the Improvements.

**Section 4.** The following additional matters are hereby determined, declared, recited and stated:

(a) The amount of any special assessment ("**Special Assessment**") levied against the Property shall be determined pursuant to a special assessment agreement entered into by and between the City and the Entity pursuant to the Local Improvements Law and *N.J.S.A. 40A:12A-66* of the Bond Financing Law (the "**Special Assessment Agreement**").

(b) The Special Assessment shall be paid in accordance with the terms of the Special Assessment Agreement, in quarterly installments payable at the time and in the manner that generally applicable property taxes are required to be paid in the City, with legal interest if applicable. The first such installment shall commence at the time set forth in the Special Assessment Agreement. Such Special Assessment shall commence as a municipal lien upon the Property in accordance with the terms of the Special Assessment Agreement and thereafter remain a municipal lien upon the Property until the Special Assessment, with all installments and accrued interest thereon, applicable to the Property shall be paid and satisfied and/or discharged in accordance with the terms of the Special Assessment Agreement.

(c) Any Special Assessment levied pursuant to this ordinance shall be subject to the terms and conditions set forth in a Special Assessment Agreement to be entered into substantially in the form attached hereto as Exhibit A, together with such additions, deletions, modifications or revisions as may be required in consultation with counsel to the City to facilitate the transaction contemplated hereby. The

Mayor is hereby authorized and directed to execute the Special Assessment Agreement and the City Clerk is hereby authorized and directed to attest to such signature, and to affix the corporate seal of the City upon the Special Assessment Agreement.

(d) The City hereby determines that it shall have the right to charge the owner of the Property legal interest with respect to any installment not paid when due, with such legal interest meaning the highest rate of interest permitted under New Jersey law in the case of unpaid taxes or tax liens until paid, or such lesser portion as may be determined by the City, and the Special Assessment may be charged, collected and otherwise applied in the manner set forth in the Special Assessment Agreement.

**Section 5.** The Mayor is hereby authorized to determine all matters and terms in connection with the Special Assessment or the Special Assessment 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 Business Administrator, the Chief Financial Officer, the City Clerk and any other City official, officer or professional, including but not limited to, redevelopment counsel, bond counsel and the financial advisor 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 and the financial advisor to the City, and any and all actions taken heretofore with respect to the transactions contemplated hereby are hereby ratified and confirmed.

**Section 6.** This ordinance shall take effect as provided by law.

**EXHIBIT A**

**SPECIAL ASSESSMENT AGREEMENT**