

O-23-52
11/8/23

ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF BAYONNE, COUNTY OF HUDSON, STATE OF NEW JERSEY APPROVING AN AMENDED AND RESTATED FINANCIAL AGREEMENT BY AND BETWEEN THE CITY OF BAYONNE AND 197 AVE. E URBAN RENEWAL, LLC FOR THE PROPERTY LOCATED AT 197 AVENUE E, WHICH PROPERTY IS IDENTIFIED AS BLOCK 221, LOT 12.02 AS SHOWN ON THE OFFICIAL TAX MAP OF THE CITY OF BAYONNE

WHEREAS, the City of Bayonne, in the County of Hudson, New Jersey (the "City"), 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, pursuant to the Redevelopment Law, the Municipal Council of the City of Bayonne (the "City Council") adopted Resolution No. 98-02-04-040, designating the entire City as an area in need of rehabilitation in accordance with N.J.S.A. 40A:12A-14; and

WHEREAS, pursuant to Ordinance #O-16-17, on April 20, 2016, the City adopted a redevelopment plan entitled "Redevelopment Plan, Block 221, Lots 8,9,10,11,12,13 Villa Nova Site Known as 33-43 East 19th Street, 197-205 Avenue E Rear and 4 Standard Place" dated March 8, 2016 (the "Redevelopment Plan"); and

WHEREAS, on April 20, 2016, Peninsula Lofts Urban Renewal, LLC ("Peninsula") was the owner of the subject property, which is designated as 197 Avenue E, and identified as Block 221, Lot 12.02 on the official Tax Maps of the City of Bayonne (the "Property"); and

WHEREAS, the Municipal Council designated Peninsula as Redeveloper of the Property; and

WHEREAS, Peninsula originally proposed to develop a parcel of approximately 0.66 acres with a Project consisting of the development and construction of an eleven (11) story residential structure with a four (4) story detached parking structure and other improvements and community amenities required by the Redevelopment Plan (the "Project"); and

WHEREAS, in accordance with the Long-Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. (the "Exemption Law"), Peninsula filed an application with the City for approval of a long term tax exemption (the "Long Term Tax Exemption") for the Project, which is incorporated herein by reference (the "Application"); and

WHEREAS, on December 13, 2017, by Ordinance No. O-17-62 (the "Ordinance"), the Municipal Council authorized the execution of the Long Term Tax Exemption Financial Agreement (the "Financial Agreement"); and

WHEREAS, on September 20, 2023, pursuant to Resolution R-9, the Municipal Council approved the transfer of the Redevelopment Agreement and the Financial Agreement by and between the City of Bayonne and Peninsula Lofts Urban Renewal to Avenue E Lofts Urban Renewal, LLC; and

WHEREAS, on September 20, 2023, pursuant to Resolution R-10, the Municipal Council designated Avenue E Lofts Urban Renewal, LLC (“Avenue E Lofts” or “Entity”) as conditional redeveloper; and

WHEREAS, Avenue E Lofts has revised the Project which would now consist of the development and construction of a thirteen (13) story residential structure containing 250 residential units, an approximately 656 s.f. ground floor commercial space, four (4) levels (250 parking spaces) of parking (with one level underground), rooftop recreational amenities, internal bicycle storage, landscaping, lighting, streetscape improvements and other improvements and community amenities required by the Redevelopment Plan; and

WHEREAS, Avenue E Lofts and the Municipal Council seek to amend and restate the Financial Agreement and enter into an Amended and Restated Financial Agreement for the Property; and

WHEREAS, pursuant to this Amended and Restated Financial Agreement for Block 221, Lot 12.02, the City and Avenue E Lofts desire to set forth in detail their mutual rights and obligations with respect to the Long-Term Tax Exemption; and

WHEREAS, AVENUE E LOFTS URBAN RENEWAL, LLC is or will be the owner or long-term lessee of property identified on the Tax Maps of the City as Block 221, Lot 12.02, which Property is more particularly described by the legal description set forth in the application submitted by the Entity (the “Application”); and

WHEREAS, the Entity is or will be the designated redeveloper of the Property; and

WHEREAS, the Entity proposes to redevelop the Property with a project that will consist of 250 residential units and other site improvements (the “Revised Project”); and

WHEREAS, the Entity submitted an application to the City for approval of an exemption for the Revised Project pursuant to the Long-Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. (the “LTTE Law”), which Application is attached hereto as Exhibit A; and

WHEREAS, the City and the Entity reviewed the application and negotiated the terms of an amended and restated financial agreement pursuant to the LTTE Law (the “Amended And Restated Financial Agreement”); and

WHEREAS, the Municipal Council finds that the requested tax exemption will benefit the City and its inhabitants by improving the use of the Property and providing economic opportunities

for residents through construction and permanent job creation, and the benefits would substantially outweigh the costs, if any, associated with the tax exemption; and

WHEREAS, the Municipal Council further finds that the requested tax exemption is important to the City and that without the incentive of the tax exemption, it is unlikely that the Revised Project will be undertaken; and

WHEREAS, the Municipal Council deems it to be in the best interest of the City to pass an Ordinance authorizing the City to enter into the proposed Amended And Restated Financial Agreement with the Entity on the terms and conditions stated in the applicable form of the Amended And Restated Financial Agreement attached as Exhibit C to this Ordinance.

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

Section 1. The development of the Project is hereby approved for the grant of a tax exemption under the LTTE Law by virtue of, pursuant to and in conformity with the provisions of the LTTE Law.

Section 2. The Mayor is hereby authorized to execute the Amended And Restated Financial Agreement with the Entity in substantially the form attached hereto and subject to any further review, analysis or modifications that counsel may deem appropriate.

Section 3. During the term of the tax exemption with respect to the Entity there shall be paid to the City in lieu of any taxes to be paid on the improvements of the Project, an annual service charge determined as provided in the Amended And Restated Financial Agreement.

Section 4. Counsel is authorized to prepare, and the Mayor is hereby authorized to execute, any additional documents that may be necessary to implement and carry out the intent of the Amended And Restated Financial Agreement.