

ORDINANCE 2020-10

Adopted August 26, 2020

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

AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE NO. 2017-06 OF THE BOROUGH OF DUNELLEN, IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, PROVIDING FOR THE SPECIAL ASSESSMENT OF THE COST OF CERTAIN WASTEWATER, STORMWATER, UTILITY AND OTHER INFRASTRUCTURE IMPROVEMENTS ON BLOCK 85, LOTS 1 & 2 AND BLOCK 83, LOT 1, ESTABLISHING A MECHANISM FOR PAYMENT OF A PORTION OF THE COST THEREOF, AND AUTHORIZING AN AMENDMENT TO SPECIAL ASSESSMENT AGREEMENT IN CONNECTION THEREWITH

WHEREAS, the Borough Council (the “*Borough Council*”) of the Borough of Dunellen had previously created the Borough of Dunellen Redevelopment Agency (the “*Agency*”) pursuant to §§68-1 through 68-4 of the Borough Code and thereafter adopted Ordinance 04-12, which repealed the creation of the Agency and appointed the Borough Council as the municipal entity responsible for implementing the redevelopment plans and carrying out the redevelopment projects pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the “*Redevelopment Law*”); and

WHEREAS, on May 5, 2003, the Borough Council adopted a resolution designating certain properties within the Borough, including Site #3 of the Redevelopment Plan, consisting of property located at South Washington Avenue between the rail line and Columbia Street, identified as Block 85, Lots 1 and 2, in the Borough as an area in need of redevelopment in accordance with the Redevelopment Law (the “*Initial Area*”); and

WHEREAS, on August 9, 2004, the Borough Council adopted an ordinance approving and adopting the Dunellen Downtown Redevelopment Plan Phase I (as thereafter amended, the “*Redevelopment Plan*”), in accordance with the Redevelopment Law; and

WHEREAS, on August 9, 2004, by Ordinance #04-12, the Borough Council appointed itself to be the appropriate authority, *i.e.*, the redevelopment entity, to implement redevelopment plans pursuant to N.J.S.A. 40A:12A-8; and

WHEREAS, on April 3, 2017, the Borough Council adopted resolutions (i) designating the Brudner Redevelopment Partners Urban Renewal, LLC as the redeveloper (the “*Redeveloper*”)

for the Initial Area and (ii) authorizing the execution and delivery of the Redevelopment Agreement (as hereinafter defined); and

WHEREAS, the Redevelopment Plan contemplates the issuance by the Borough of redevelopment area bonds to finance the redevelopment project; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, the Borough Council authorized the Planning Board to undertake an investigation to determine whether Block 83, Lot 1, in the Borough, more commonly known as 105 South Washington Avenue, should be designated as a non-condemnation area in need of redevelopment; and

WHEREAS, the Planning Board, after public hearing and consideration of information gathered and reported in the Preliminary Investigation report prepared by CME Associates, dated July 13, 2017, recommended that Block 83, Lot 1, in the Borough, more commonly known as 105 South Washington Avenue, be designated as a non-condemnation area in need of redevelopment; and

WHEREAS, by Resolution 10-02-2017:#1, dated October 2, 2017, the Borough Council declared Block 83, Lot 1, to be a non-condemnation area in need of redevelopment (the "*Additional Lot*", and together with the Initial Area, the "*Redevelopment Area*" or the "*Property*"); and

WHEREAS, by Ordinance 2017-10, adopted November 6, 2017, the Borough Council adopted an amended Redevelopment Plan that includes the Additional Lot; and

WHEREAS, the Borough and the Redeveloper entered into that certain Redevelopment Agreement, dated as of July 13, 2017 (the "*2017 Redevelopment Agreement*"), as amended by the First Amendment to Redevelopment Agreement dated as of August 5, 2019 to, among other things, include Block 83, Lot 1, (the "*First Amendment to Redevelopment Agreement*", together with the 2017 Redevelopment Agreement, as the same may be amended, modified or supplemented from time to time the "*Redevelopment Agreement*") in order to effectuate the Redevelopment Plan; and

WHEREAS, on June 5, 2017, the Borough adopted Ordinance 2017-06 entitled "**AN ORDINANCE OF THE BOROUGH OF DUNELLEN, IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, PROVIDING FOR THE SPECIAL ASSESSMENT OF THE COST OF CERTAIN WASTEWATER, STORMWATER, UTILITY AND OTHER INFRASTRUCTURE IMPROVEMENTS ON BLOCK 85, LOTS 1 & 2 AND ESTABLISHING A MECHANISM FOR PAYMENT OF THE COST THEREOF**" (the "*Initial Ordinance*"), which in part authorized the execution of a Special Assessment Agreement dated July 13, 2017 (the "*Initial Agreement*"); and

WHEREAS, the Borough and the Redeveloper wish to include the Additional Lot as part of the Property that is subject to the special assessment, and to authorize an amendment to the Initial Agreement (the "*First Amendment*", and together with the Initial Agreement, the "*Special Assessment Agreement*") in order to include Block 83, Lot 1 as part of the Property governed thereby, and to make certain other changes to the Initial Agreement in connection therewith,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF DUNELLEN, IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AS FOLLOWS:

Section 1. The defined terms set forth in the recitals contained in this ordinance are incorporated by reference as if set forth at length herein, and all capitalized terms not defined herein shall be ascribed the meaning given to such terms in the Initial Ordinance.

Section 2. All references to the "*Property*" contained in the Initial Ordinance are hereby amended to mean Block 85, Lots 1 and 2, and Block 83, Lot 1. Notice is hereby given to the owners of the Property that the Borough 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 Infrastructure Improvements for the Property subject to this ordinance is \$3,147,000 (subject to the actual costs of such Infrastructure Improvements at the time of installation as certified to the Borough Engineer), 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 Infrastructure Improvements.

Section 3. The Mayor is hereby authorized and directed to execute the First Amendment in substantially the form attached hereto as Exhibit A, together with such changes, modifications or revisions as may be necessary or appropriate in consultation with the Borough's redevelopment counsel. The Borough Clerk is hereby authorized and directed to attest to the signature of the Mayor and to affix the corporate seal of the Borough upon the First Amendment.

Section 4. Except as expressly modified herein, the Initial Ordinance and the Initial Agreement remain in full force and effect and binding in accordance with their terms.

Section 5. If any one or more of the provisions herein contained shall be held to be illegal or invalid in a final proceeding, then such provisions shall be null and void and shall be deemed separable from the remaining provisions of this ordinance and shall in no way affect the validity of any of the other provisions hereof.

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