

ORD. #1682
ORDINANCE OF THE BOROUGH OF KEANSBURG,
COUNTY OF MONMOUTH, NEW JERSEY APPROVING
THE APPLICATION FOR A LONG-TERM TAX
EXEMPTION AND AUTHORIZING THE EXECUTION OF
A MASTER FINANCIAL AGREEMENT WITH CARR
BEACH URBAN RENEWAL, LLC

WHEREAS, the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.*, as amended from time to time (the “**Redevelopment Law**”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment and/or rehabilitation; and

WHEREAS, pursuant to *N.J.S.A. 40A:12A-4(c)*, the Borough Council, on July 27, 2005, adopted Resolution #171-A, determining that the entire Borough is an “area in need of rehabilitation,” as defined in the Redevelopment Law; and

WHEREAS, on August 26, 2015, the Borough Council by Resolution No. 15-107 designated Block 184, Lots 1, 3.02, 3.03, and a portion of Lot 3.01 on the tax maps of the Borough, with said portion of Lot 3.01 more specifically set forth in the legal descriptions attached to the Beachway Avenue Redevelopment Agreement (as defined herein), as areas of need of redevelopment in accordance with the criteria and procedures set forth in the Redevelopment Law (the “**Beachway Avenue Redevelopment Area**”); and

WHEREAS, on February 22, 2006, the Borough Council adopted Ordinance No. 1403 adopting a redevelopment plan entitled “Beachway Avenue Waterfront Redevelopment Plan” to govern lots which were then identified as Block 184, Lots 1, 2 and 3 in the rehabilitation area and now identified as Block 184, Lots 1, 3.02, 3.03, and a portion of Lot 3.01, which redevelopment plan was amended by Ordinance No. 1600 finally adopted on June 21, 2017 and further amended by Ordinance No. 1667 finally adopted on February 17, 2021 to acknowledge that Block 184, Lots 1, 3.02, 3.03 and a portion of Lot 3.01 were designated as “areas in need of redevelopment” pursuant to Resolution No. 15-107 as well as various other amendments (collectively, the “**Beachway Avenue Waterfront Redevelopment Plan**”); and

WHEREAS, on April 22, 2020, the Borough Council by Resolution No. 20-038 designated all properties located in Blocks 7, 8, 10, 11, 12, 13, 14 and 52 on the tax maps of the Borough as areas of need of redevelopment and a non-condemnation redevelopment area in accordance with the criteria and procedures set forth in the Redevelopment Law (the “**Carr Avenue Redevelopment Area**”); and

WHEREAS, on August 19, 2020, the Borough Council by Ordinance No. 1659 adopted a redevelopment plan entitled the “Redevelopment Plan for Block 11, Lots 4 through 7” prepared by T&M Associates dated July 22, 2020 (the “**Block 11 Redevelopment Plan**”), to govern Block 11, Lots 4 through 7 in the Carr Avenue Redevelopment Area; and

WHEREAS, on July 21, 2021, the Borough Council adopted Ordinance No. 1679 addressing a redevelopment plan entitled the “Carr Avenue Corridor Redevelopment Plan” prepared by T&M Associates dated June 9, 2021 (the “**Carr Avenue Corridor Redevelopment Plan**”), to govern the following block and lots:

Block 10, Lots 1, 3, 4, 5, 6, 7, 8, and 9;
Block 11, Lots 3, 8 and 9
Block 12, Lots 3, 4, 5, 6, 7, 8, 9, and 10;
Block 13, Lots 1, 2.02, 3, 4, 5.01, 5.03, 7, and 8;
Block 14, Lots 1, 1.02, 2, 3, 4, 5, 6, 7, 8, and 9;
Block 52, Lots 3, 4, 5, 6, 7, 8, 9 and 10;

WHEREAS, by Resolution No. 21-091, adopted July 21, 2021, the Borough Council authorized the execution of the Carr Avenue Redevelopment Agreement to govern the properties described in the Block 11 Redevelopment Plan with Sackman Enterprises of NJ, LLC (the “**Block 11 Redevelopment Agreement**”); and

WHEREAS, by Resolution No. 21-090, adopted July 21, 2021, the Borough Council authorized the execution of the Beachway Avenue Redevelopment Agreement to govern the Beachway Avenue Redevelopment Area with Sackman Enterprises of NJ, LLC (the “**Beachway Avenue Redevelopment Agreement**”); and

WHEREAS, by Resolution No. 21-097, adopted August 18, 2021, the Borough Council authorized the execution of the Carr Avenue Corridor Redevelopment Agreement, to govern the properties described in the Carr Avenue Redevelopment Plan, with Sackman Enterprises of NJ, LLC (the “**Carr Avenue Corridor Redevelopment Agreement**,” together with the Beachway Avenue Redevelopment Agreement and the Block 11 Redevelopment Agreement, collectively referred to herein as the “**Redevelopment Agreements**”); and

WHEREAS, the properties that are the subject of this Master Financial Agreement are comprised of the following block and lots:

Block 10, Lots 1, 3, 4, 5, 6, 7, 8, and 9;
Block 11, Lots 3, 4, 5, 6, 7, 8, and 9;
Block 12, Lots 3, 4, 5, 6, 7, 8, 9, and 10;
Block 13, Lots 1, 2.02, 3, 4, 5.01, 5.03, 7, and 8;
Block 14, Lots 1, 1.02, 2, 3, 4, 5, 6, 7, 8, and 9;
Block 52, Lots 3, 4, 5, 6, 7, 8, 9, and 10;
Block 184, Lots 3.01 (portion), 3.02 and 3.03 (all collectively referred to herein as the “**Property**”); and

WHEREAS, Carr Beach Urban Renewal, LLC (the “**Entity**”), an affiliate of Sackman Enterprises of NJ, LLC, has agreed to undertake and make good faith efforts to redevelop the Property and the project, which project will consist of multiple phases to revitalize the waterfront, including the demolition and new construction of approximately 737 multi-family residential units, approximately 69,000 square feet of retail space, parking, and various public

improvements (all collectively referred to herein as the “**Project**”), which Project may (but shall not be required to) be constructed in phases as follows:

Phase 1: Phase Carr 1A comprised of approximately 50 residential units and approximately 6,900 square feet of retail;

Phase 2: Phase Carr 2B comprised of approximately 45 residential units and approximately 6,900 square feet of retail;

Phase 3: Phase Carr 3E comprised of approximately 50 residential units and approximately 6,900 square feet of retail;

Phase 4: Phase Carr 4F comprised of approximately 50 residential units and approximately 6,900 square feet of retail;

Phase 5: Phase Carr 5H comprised of approximately 50 residential units and approximately 6,900 square feet of retail;

Phase 6: Phase Carr 6G comprised of approximately 150 residential units and approximately 6,900 square feet of retail;

Phase 7: Phase Carr 6C comprised of approximately 70 residential units and approximately 6,900 square feet of retail;

Phase 8: Phase Beach 2J comprised of approximately 102 residential units and approximately 6,900 square feet of retail;

Phase 9: Phase Beach 3J comprised of approximately 102 residential units and approximately 6,900 square feet of retail; and

Phase 10: Phase Beach 4J comprised of approximately 68 residential units and approximately 6,900 square feet of retail (each referred to herein as a “**Phase**” and collectively “**Phases**”); and

WHEREAS, pursuant to *N.J.S.A. 40A:20-12(a)(2)* of the Long Term Tax Exemption Law (the “**LTTE Law**”), for projects undertaken in phases, the financial agreement may specify a duration of not more than 30 years from the completion of a project or phase thereof, or not more than 50 years from the execution of the first financial agreement implementing a project under a redevelopment agreement; and

WHEREAS, it is contemplated that the Project will be undertaken in multiple Phases as described above and that the Parties will enter into this Financial Agreement for a duration of not more than 30 years for each Phase, or not more than 50 years from the execution of this Financial Agreement; and

WHEREAS, the Property and the Project are governed by multiple redevelopment plans,

including the Beachway Avenue Waterfront Redevelopment Plan, the Block 11 Redevelopment Plan, and the Carr Avenue Corridor Redevelopment Plan (all collectively referred to herein as the “**Redevelopment Plans**”) and in connection therewith, the Entity has agreed to devote substantial effort, assets and funds for the completion of the Project as contemplated herein; and

WHEREAS, the cost of the Project is expected to be approximately \$166,069,089.00; and

WHEREAS, despite the Entity’s current and future substantial investment of “at risk” equity and traditional borrowed funds for the acquisition, development and construction of the Project, such amounts of equity and traditional borrowed funds are insufficient to pay for all the costs associated with the acquisition, development and construction of the Project; and

WHEREAS, pursuant to and in accordance with the provisions of the *Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 et seq.*, as amended and supplemented (the “**Bond Financing Law**”), the Borough is authorized to provide for and accept, in lieu of real property taxes, an annual service charge paid by the Entity to the Borough in accordance with certain applicable provisions of the Long Term Tax Exemption Law; and

WHEREAS, in accordance with the Long Term Tax Exemption Law, the Entity, on Jun2 28, 2021, has submitted a written application (the “**Application**”) to the Borough for approval of a tax exemption for the Project, a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, pursuant to the Bond Financing Law, specifically *N.J.S.A. 40A:12A-68*, the Annual Service Charge (as such term is defined herein) shall, upon the recordation of this Agreement and the Ordinance, constitute a municipal lien on the Property and the Project within the meaning of the law; and

WHEREAS, pursuant to the Bond Financing Law, specifically *N.J.S.A. 40A:12A-67(a)*, the Borough may issue bonds, may apply to an authority (as such term is defined in the Bond Financing Law) to issue bonds, or may cause the issuance of such bonds, which bonds may be secured by the Annual Service Charge; and

WHEREAS, in order to assist in financing a portion of the costs of the public improvements of the Project, the Borough has agreed to issue in the aggregate not to exceed **FIFTEEN MILLION (\$15,000,000)** Non-Recourse Redevelopment Bonds (as more fully defined herein, the “**Redevelopment Bonds**”), which Redevelopment Bonds may be issued in notes, in accordance with that certain Indenture of Trust dated as of the first day of the month of issuance of the Redevelopment Bonds, as the same by amended, modified or supplemented from time to time, (the “**Indenture**”) by and between the Borough and a banking corporation with corporate trust powers (together with any successor trustee under the Indenture and their respective successors and assigns, the “**Trustee**”) for the purpose of providing funds for the Project; and

WHEREAS, pursuant to the terms of the Master Financial Agreement and the Indenture between the Entity and the Borough (the “**Financial Agreement**”), and in accordance with the terms of the Bond Financing Law, specifically *N.J.S.A. 40A:12A-67(a)*, the Annual Service

Charge (as defined in the Financial Agreement) (net of the County Share (as defined in the Financial Agreement)) shall be pledged to the payment of the principal or redemption premium of, and interest on, the Redevelopment Bonds, which Redevelopment Bonds shall be nonrecourse to the Borough; and

WHEREAS, the Entity and the Borough will agree that the Debt Service (as defined in the Financial Agreement) on the Redevelopment Bonds shall be paid from the Annual Service Charge (as defined in the Financial Agreement and net of the County Share), with the Borough Share (as defined in the Financial Agreement), also paid from the Annual Service Charge, to be used by the Borough for any lawful purpose in the exercise of the Borough's sole discretion; and

WHEREAS, the Borough has made the following findings with respect to the Project:

- i. The Project will provide additional commercial and residential rental units in the Borough;
- ii. The Project will provide an estimated 300-500 temporary construction jobs and an estimated 200 permanent jobs; and
- iii. Tax exemption of the Project permits (a) better use of Property; (b) the availability of and improvements to commercial and residential rental units in the Borough; and (c) revitalizes the waterfront.

WHEREAS, in considering the within ordinance, the Borough found that, *inter alia*, the Project would not have been constructed without a tax exemption for the Project; and

WHEREAS, in order to set forth the terms and conditions under which the parties shall carry out their respective obligations with respect to (a) the payment of the Annual Service Charge (as defined in the Financial Agreement) by the Entity and (b) the issuance of the Redevelopment Bonds and provision for repayment thereof through the Annual Service Charge, the parties desire to enter into the Financial Agreement; and

WHEREAS, the Project will conform to all applicable municipal zoning ordinances, as amended by the Redevelopment Plans, and will be in conformance with the master plan of the Borough; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the Borough seeks to enter into the Financial Agreement in the form attached hereto as **Exhibit B** which shall govern the terms of the tax exemption for the Project, as set forth herein; and

WHEREAS, the Borough has determined that the Project represents an undertaking permitted by the LTTE Law and the Bond Financing Law, and has further determined that the Project is an improvement made for the purposes of clearance, replanning, development or redevelopment of an area in need of redevelopment within the Borough, as authorized by the LTTE Law; and

WHEREAS, the Mayor has submitted the Application and Financial Agreement to the Borough Council with his recommendation for approval (the “**Mayor’s Recommendation**”), a copy of which recommendation is on file with the Municipal Clerk.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF KEANSBURG, NEW JERSEY AS FOLLOWS:

1. An exemption from taxation as set forth in the Application is hereby granted to the Entity. The land underlying the residential portion of the Project shall be exempt from Land Taxes (as defined in the Financial Agreement). Land Taxes shall be assessed only on the commercial portion of the Property without any consideration of the Project located thereon, for the term set forth in the Financial Agreement, provided that in no event shall the tax exemption provided herein exceed the earlier of 30 years for each Phase, or not more than 50 years from the execution of this Financial Agreement, pursuant to *N.J.S.A. 40A:20-12(a)(2)*, and only so long as the Entity remains subject to and complies with the Financial Agreement and the LTTE Law and any other agreement related to the Project; and provided further, that in no event shall the Annual Service Charge, for every year the property tax exemption is in effect, be less than the total taxes levied against the Property in the last full tax year it was subject to taxation.

2. The Mayor or the Borough Manager, in consultation with counsel to the Borough, are hereby authorized to execute and/or amend, modify or make such necessary changes to the Application, the Mayor’s Recommendation, the Financial Agreement and any other agreements or documents necessary to effectuate this ordinance and the Financial Agreement.

3. The executed copy of the Financial Agreement and this ordinance shall be certified by the Municipal Clerk and filed with the Tax Assessor for the Borough and the Director of the Division of Local Government Services.

4. The Project shall conform to all federal and state law and ordinances and regulations of the Borough relating to its construction and use, including the Redevelopment Plans.

5. The Entity shall, in the operation of the Project, comply with all laws so that no person because of race, religious principles, color, national origin or ancestry, will be subject to discrimination.

6. The Entity shall, from the time the Annual Service Charge becomes effective, pay the Annual Service Charge as set forth in the Financial Agreement.

7. The following occurrences are express conditions to the grant of this tax exemption, to be performed by the Entity:

(a) The Entity shall not, without prior consent of the Borough as set forth in the Financial Agreement, convey, mortgage or transfer all or any part of the Project which would

sever, disconnect or divide the improvements being tax exempted under the Financial Agreement from the land underlying the exempted improvements.

(b) The Entity shall complete the Project within the timeframes set forth in the Redevelopment Agreements.

8. This ordinance shall take effect in accordance with all applicable laws.

I HEREBY CERTIFY the foregoing to be a true copy of an Ordinance introduced on August 18, 2021 and finally adopted on _____, 2021 by the Borough Council of the Borough of Keansburg, in the County of Monmouth.

Thomas P. Cusick, RMC
Municipal Clerk
Borough of Keansburg

EXHIBIT A

Application for Long Term Tax Exemption

EXHIBIT B

Financial Agreement