O2024-20

ORDINANCE OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, NEW JERSEY APPROVING AN APPLICATION FOR A LONG TERM TAX EXEMPTION AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT FOR A TAX EXEMPTION FOR AN URBAN RENEWAL PROJECT WITH RESPECT TO BLOCK 1005, LOT 3 (540 MARSHALL)

WHEREAS, the Municipal Council of the Town of Phillipsburg, in the County of Warren, State of New Jersey (the "**Town**"), 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 Town constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

WHEREAS, in accordance with the criteria set forth in the Redevelopment Law, the Town of Phillipsburg (the "**Town**") identified and designated the 540 Marshall Street, Block 1005, Lot 3 as set forth on the tax map of the Town as an "area in need of redevelopment" (the "**Redevelopment Area**") and adopted a redevelopment plan for the Redevelopment Area entitled the "*540 Marshall Street* Redevelopment Plan", as the same may be further amended and supplemented from time to time (the "**Redevelopment Plan**"); and

WHEREAS, the Town has determined to act as the "redevelopment entity" for the Redevelopment Area in accordance with the provisions of the Redevelopment Law which also authorizes the redevelopment entity to arrange or contract for the planning, construction or undertaking of any development project or redevelopment work in an area designated as an "area in need of redevelopment" pursuant to N.J.S.A. 40A:12A-8; and

WHEREAS, 540 Marshall Urban Renewal Limited Liability Company, or its affiliate (the "**Redeveloper**") is a developer with resources and a team of experts in planning, redevelopment, law, engineering, environmental issues, architecture, design, finance, and real estate development with experience suitable for the proposed redevelopment of the Redevelopment Area; and

WHEREAS, Redeveloper entered into a redevelopment agreement with the Town dated _____, 2024 (the "**Redevelopment Agreement**") providing for the construction of apartments and grocery store as defined in the Redevelopment Plan, and related improvements and amenities, which may include ancillary site improvements, or other use as permitted by the Redevelopment Plan (the "Project") and

WHEREAS, the Project shall conform to the Redevelopment Plan and will be in conformance with the master plan of the Town; and

WHEREAS, despite the Entity's substantial investment of equity and borrowed funds, such amounts are insufficient to pay for all of the costs associated with the development and construction of the Project; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the Entity has submitted an application for the approval of the Project (the "**Exemption Application**") and a form of financial agreement (the "**Financial Agreement**") to the Town for the approval of an urban renewal project, all in accordance with the Long Term Tax Exemption Law, *N.J.S.A.* 40A:20-1 *et seq.* (the "**LTTE Law**"), specifically *N.J.S.A.* 40A:20-8; and

WHEREAS, pursuant to *N.J.S.A.* 40A:20-8, the Mayor has reviewed the Exemption Application and has submitted the Exemption Application and Financial Agreement to the Town Council with his recommendation for approval, subject to the condition that the Entity pay, in lieu of tax payments on the Project, an annual service charge, such that the combined tax payment on the land and the annual service charge paid by the Entity each year shall be no less than the amount of the total property taxes that the Town has received from the Redevelopment Area, prior to redevelopment; and

WHEREAS, upon review of the proposed Project, the Exemption Application and the Mayor's Recommendation, the Town has made the following findings with respect to the Project pursuant to *N.J.S.A.* 40A:20-11:

1. The Redevelopment Area is not currently developed to its maximum potential. The Redevelopment Area is sparsely developed and underutilized and generates minimal taxes for the Town. Despite the development potential in the Redevelopment Area, a history of failed development attempts has artificially raised the cost of land acquisition and construction making development in the Redevelopment Area financial infeasible without financial assistance. Upon expiration of the exemption, the Project shall be fully assessed and conventionally taxed;

2. Given the costs as well as the uncertainty and instability of current economic and market conditions as well as aggressive competition within the region, the investment risk makes the financing of the Project infeasible in the absence of a tax exemption provided by the Town;

3. The construction of the Project will result in substantial improvements to the infrastructure on the site as well as community benefits in the form of increased jobs, ratables and recreational space;

4. The Project is consistent with the Redevelopment Plan, will further its objectives and will contribute to the economic growth of the Town;

5. The Financial Agreement was a material inducement to the Entity to undertake the Project in the Town and facilitate the redevelopment of the Redevelopment Area; and

WHEREAS, in accordance with the provisions of the LTTE Law, the Town desires to approve the Project and authorize the execution of the Financial Agreement.

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWN OF PHILLIPSBURG, NEW JERSEY AS FOLLOWS:

Section 1. The forgoing recitals are incorporated herein as if set forth in full.

Section 2. An exemption from taxation as set forth in the Exemption Application is hereby approved and granted to the Entity, with respect to the Project in the Redevelopment Area in accordance with the term set forth in the Financial Agreement; provided that in no event shall the term of the Financial Agreement exceed the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) to the extent permitted by the LTTE Law, thirty (30) years from the Entity's receipt of a Certificate of Occupancy (as defined in the Financial Agreement) for the Project and only so long as the Entity remains subject to and in compliance with the Financial Agreement and the LTTE Law.

Section 3. The form of Financial Agreement submitted by the Entity, attached hereto as **Exhibit A** and made a part hereof, is hereby approved in accordance with Section 8 of the LTTE Law.

Section 4. The Mayor, in consultation with counsel to the Town, is hereby authorized to execute the Financial Agreement and prepare, amend or execute any other agreements necessary to effectuate this ordinance, subject to modification or revisions, as deemed necessary and appropriate.

Section 5. The Clerk of the Town is hereby authorized and directed, upon execution of the Financial Agreement by the Mayor, to attest to the signature of the Mayor and to affix the corporate seal of the Town upon such document.

Section 6. The executed copy of the Financial Agreement shall be certified by and filed with the Office of the Town Clerk. Further, the Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Town and the Director of the Division of Local Government Services with the Department of Community Affairs, in accordance with Section 12 of the LTTE Law.

Section 7. The Project shall conform with all federal, state and Town laws, ordinances and regulations relating to its construction and use.

Section 8. The Entity shall, in the operation of the Project, comply with all laws so that no person of race, religious principles, color, national origin or ancestry will be subject to discrimination.

Section 9. This ordinance shall take effect in accordance with all applicable laws.

ATTEST:

SUSAN TURNER
Acting Municipal Clerk
DATED: Sept 13, 2024

TOWN OF PHILLIPSBURG

RANDY PIAZZA, JR.
Mayor

CERTIFICATION

I, Susan Turner, Acting Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their September 11, 2024 meeting.

Susan Turner,
Acting Municipal Clerk