

ORDINANCE 2023-08

BOND ORDINANCE OF THE VILLAGE OF RIDGEFIELD PARK, IN THE COUNTY OF BERGEN, NEW JERSEY, PROVIDING FOR THE FINANCING OF A PORTION OF THE COSTS OF A REDEVELOPMENT PROJECT (95 CHALLENGER ROAD), APPROPRIATING \$2,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$2,000,000 NON-RECOURSE REDEVELOPMENT AREA BONDS OF THE VILLAGE FOR FINANCING SUCH APPROPRIATION.

WHEREAS, the Board of Commissioners (the "Board of Commissioners") of the Village of Ridgefield Park, in the County of Bergen, New Jersey (the "Village") pursuant to the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as amended and supplemented (the "Redevelopment Law") has the responsibility for implementing redevelopment plans and carrying out redevelopment projects in the Village; and

WHEREAS, in accordance with the criteria set forth in the Redevelopment Law, the Village in 1979 designated a number of parcels of land adjacent to Challenger Road in the Village as an area in need of redevelopment (the "Original Challenger Road Redevelopment Area"); and

WHEREAS, on or about June 26, 1979, the Board of Commissioners adopted a redevelopment plan (later amended and, as amended, the "Original Redevelopment Plan"), which has since expired, with respect to the Original Challenger Road Redevelopment Area; and

WHEREAS, the Redevelopment Law authorizes the Village to arrange or contract with a redeveloper for the planning, construction or undertaking of any project of redevelopment work in an area designated as an area in need of redevelopment; and

WHEREAS, Hartz Mountain Industries ("Hartz") was designated as the redeveloper for the Original Challenger Road Redevelopment Area under the Original Redevelopment Plan; and

WHEREAS, under the Original Redevelopment Plan, Hartz and the Village entered into a certain Master Leasing and Option Agreement, dated June 30, 1981, and amended thereafter (the "Master Lease"), pursuant to which Hartz was given the option to lease and the right to develop parcels of land within the entire overall Original Challenger Road Redevelopment Area; and

WHEREAS, Hartz entered into a ground lease for five (5) separate parcels of land within the Original Challenger Road Redevelopment Area, each of which has now been redeveloped; and

WHEREAS, Hartz, however, did not lease and develop all of the parcels of land within the entire overall Original Challenger Road Redevelopment Area; and

WHEREAS, the Master Lease expired by its terms as of June 29, 2004, after which the three (3) vacant parcels of land in the Original Challenger Road Redevelopment Area which were not leased or redeveloped by Hartz reverted back to the Village free of the Master Lease; and

WHEREAS, on October 25, 2005, the Board of Commissioners adopted a resolution declaring these three (3) parcels of land to be an area in need of redevelopment pursuant to the Redevelopment Law (the "New Challenger Road Redevelopment Area" or the "Redevelopment Area"); and

WHEREAS, on December 27, 2005, after a public hearing and recommendation by the Planning Board of the Village, the Board of Commissioners adopted Ordinance No. 05-131 approving and adopting Redevelopment Plan No. 3 (the "New Redevelopment Plan") which set forth the parameters for redevelopment of the New Challenger Road Redevelopment Area, including office, hotel, retail, residential, restaurant and health club uses; and

WHEREAS, beginning in 2011, the Village issued multiple requests for proposals and other informal inquiries seeking development proposals from experienced developers for the sale and redevelopment of two (2) of the three (3) parcels of land in the New Challenger Road Redevelopment Area, being 95 Challenger Road, Block 24.03, Lot 4, and 64 Challenger Road, Block 24.02, Lot 1; and

WHEREAS, in response to these requests, numerous proposals were received by the Village from multiple different developers; and

WHEREAS, in 2017, the Village received an inquiry from The KABR Group, LLC ("KABR"), which was interested in developing 64 Challenger Road in conjunction with its proposed development of 95 Challenger Road as an office complex or alternatively, a multi-family residential housing facility; and

WHEREAS, the Board of Commissioners entered into discussions and negotiations with KABR concerning this proposal; and

WHEREAS, after these discussions and negotiations the Board of Commissioners determined that it was in the best interests of the Village to designate 95 Challenger Road, LLC (the "Redeveloper"), as the redeveloper for the parcel located at 95 Challenger Road, Block 24.03, Lot 4 (the "Property"); and

WHEREAS, the Village designated the Redeveloper as the redeveloper for the Property; and

WHEREAS, the Village entered into a redevelopment agreement with the Redeveloper, dated September 21, 2017, as amended and supplemented, including without limitation that certain Reinstatement of and Amendment to Redevelopment Agreement, dated October 30, 2017, and that certain Second Amendment to Redevelopment Agreement, dated as of December 8, 2022 (collectively, the "Redevelopment Agreement"), governing the redevelopment of the Property; and

WHEREAS, on February 26, 2019, the Board of Commissioners adopted Ordinance No. 2019-04, approving and adopting an amendment to the New Redevelopment Plan governing the New Challenger Road Redevelopment Area, entitled "Challenger Road Redevelopment Plan for Block 24.02, Lot 1, Block 24.03, Lot 4, Block 24.04, Lot 1, and Block 24.05, Lot 1," dated February 12, 2019 (the "Redevelopment Plan"); and

WHEREAS, on June 6, 2022, the Redeveloper filed an amendment to its certificate of incorporation which, among other things, changed its name to 95 Challenger Road Urban Renewal, LLC (the Redeveloper as renamed, the "URE"); and

WHEREAS, the URE has been qualified by the State of New Jersey (the "State") to do business as an "urban renewal entity" under the provisions of the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., as amended and supplemented (the "LTTE Law"); and

WHEREAS, the URE owns the Property, has been designated as "redeveloper" of the Property pursuant to the Redevelopment Law and has entered into the Redevelopment Agreement with the Village, acting in the capacity as "redevelopment entity" pursuant to N.J.S.A. 40A:12A-11, providing for the "redevelopment" of the Property pursuant to the Redevelopment Law; and

WHEREAS, in accordance with the Redevelopment Agreement, the URE proposes to construct upon the Property approximately 216 residential rental units, of which 194 shall be market rate units and 22 shall be affordable housing units, 2,100 square feet of retail space, 13,075 square feet of amenity space and 333 parking spaces (collectively, the "Project"); and

WHEREAS, despite the URE's current and future substantial investment of "at-risk" equity and traditionally borrowed funds for the acquisition, development and construction of the Project, the URE represented to the Village that such amounts of equity and traditionally borrowed funds are insufficient to pay for all of the costs associated with the acquisition, development and construction of the Project; and

WHEREAS, pursuant to and in accordance with the provisions of the LTTE Law, the Village is authorized to provide for tax exemptions within a redevelopment area and for payments in lieu of taxes; and

WHEREAS, in order to improve the feasibility of the renovation, operation and maintenance of the Project, the URE, in accordance with N.J.S.A. 40A:20-8, submitted an application, dated June 27, 2022, to the Mayor of the Village (the "Mayor") for the approval of the Project, as an urban renewal project, as such term is used in the LTTE Law, and the granting of a long-term tax exemption and financial agreement with respect to the Project (the "Application") pursuant to the LTTE Law and the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 et seq., as amended and supplemented (the "RAB Law"), which Application is on file with the Village Clerk; and

WHEREAS, there was submitted as part of the Application a form of a financial agreement (the "Financial Agreement") pursuant to which the URE agrees to pay, in lieu of tax payments, an annual service charge (the "Annual Service Charge") on the Project, a copy of which is on file with the Village Clerk; and

WHEREAS, the URE has represented to the Village that the Project would not be feasible in its intended scope but for the provision of financial assistance by the Village and that the improvements on the Property, which is located within an area in need of redevelopment, may qualify for tax exemptions; and

WHEREAS, the Project will conform to all applicable municipal zoning ordinances as amended by the Redevelopment Plan and will be in conformance with the Village's Master Plan; and

WHEREAS, after review of the Application, the Mayor by letter dated December 8, 2022, a copy of which is on file with the Village Clerk, recommended to the Board of Commissioners that the Application be approved on such terms as are set forth in the Financial Agreement; and

WHEREAS, on December 22, 2022 pursuant to Ordinance No. 2022-13 (the "PILOT Ordinance"), the Board of Commissioners determined that (a) the relevant benefits of the Project to the redevelopment of the Redevelopment Area outweigh the loss, if any, of property tax revenue in granting the long-term exemption for the Project, (b) the Project will remediate existing environmental conditions and accelerate the development of longstanding, vacant and currently unusable property while providing new retail commercial goods, services and jobs, market rate and affordable housing, real estate tax revenues and benefits, traffic management and renewal and revitalization of the Redevelopment Area, (c) the requested tax exemption permits and provides better use of the Redevelopment Area and completion or enhancement of significant infrastructure improvements, (d) the Project constitutes improvements made for the purposes of clearance, re-planning, development and/or redevelopment or an area in need of redevelopment within the Village, as authorized by the Redevelopment Law, the RAB Law and the LTTE Law and (e) the assistance provided to the Project pursuant to the Financial Agreement will be a significant inducement for the Redeveloper to proceed with the Project and that based on information and representations set forth in the Application, the Project would not be feasible without such assistance; and

WHEREAS, pursuant to the PILOT Ordinance, the Board of Commissioners approved the Application on such terms as are set forth in the Financial Agreement and granted a long-term tax exemption to the URE for the Project and, in connection therewith, determined to utilize the RAB Law, the LTTE Law and such other statutes as may be sources of relevant authority, if any, to facilitate financing of the Project; and

WHEREAS, the provisions of the LTTE Law, the RAB Law, the Redevelopment Law and such other statutes as may be sources of relevant authority, if any, authorize the Village to accept, in lieu of real property taxes, the Annual Service Charge paid by the URE to the Village as set forth in such laws; and

WHEREAS, pursuant to the RAB Law, specifically N.J.S.A. 40A:12A-68, the Annual Service Charge shall, upon the recordation of the Financial Agreement and the PILOT Ordinance, constitute a municipal lien on the Project within the meaning of such laws; and

WHEREAS, pursuant to the RAB Law, specifically N.J.S.A. 40A:12A-67, the Village may issue bonds to finance redevelopment projects pursuant to a redevelopment plan within an area in need of redevelopment, which bonds may be secured by an annual service charge, except that, pursuant to N.J.S.A. 40A:12A-66(a), the provisions of the LTTE Law, specifically (a) N.J.S.A. 40A:20-12 establishing a minimum or maximum annual service charge and requiring staged increased in annual service charges over the term of the exemption period and (b) N.J.S.A. 40A:20-13 permitting the urban renewal entity to relinquish its status under the LTTE Law, shall not apply to redevelopment projects financed with such bonds; and

WHEREAS, in accordance with the provisions of the Financial Agreement as approved by the PILOT Ordinance and as an inducement to the URE to construct the Project, and in furtherance of the purposes of the Redevelopment Law and the RAB Law, the Village is desirous of (a) issuing non-recourse redevelopment area bonds from time to time in an aggregate principal amount not to exceed \$2,000,000 (the “Bonds”) in order to finance a portion of the costs of the Project, (b) securing the Bonds with a pledge of a portion of the Annual Service Charge and (c) selling the Bonds at a private sale as there is no readily available market for the purchase of the Bonds; and

WHEREAS, pursuant to the provisions of the Redevelopment Law and the RAB Law, including, without limitation, N.J.S.A. 40A:12A-29(a)(3) and N.J.S.A. 40A:12A-67(g), and all other applicable law, the Bonds and the private sale thereof are subject to the review and approval of the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs of the State (the “Local Finance Board”), which review and approval shall be made prior to approval of this bond ordinance; and

WHEREAS, on March 21, 2023, the Village submitted an application to the Local Finance Board for the Local Finance Board’s approval of the issuance of the Bonds and the private sale thereof; and

WHEREAS, the Local Finance Board at a meeting held on April 12, 2023 approved the issuance of the Bonds and the private sale thereof; and

WHEREAS, the Village is desirous of authorizing the issuance and sale of the Bonds, determining various details with respect to the Bonds and authorizing various actions to be taken in connection therewith;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE VILLAGE OF RIDGEFIELD PARK, IN THE COUNTY OF BERGEN, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. Purpose and Appropriation. The purpose for which the Bonds are to be issued is the financing of a portion of the cost of the Project pursuant to the Redevelopment Law, the RAB Law and all other applicable law. Such purpose is hereby authorized as a general improvement or purpose that the Village is authorized to finance pursuant to the Redevelopment Law, the RAB Law and all other applicable law. For such purpose, there is hereby appropriated the sum of \$2,000,000. Pursuant to the provisions of the Redevelopment Law and the RAB Law, no down payment is required in connection with the adoption of this bond ordinance.

Section 2. Authorization and Title of the Bonds. In order to finance a portion of the cost of the Project as described in Section 1 of this bond ordinance, bonds of the Village are hereby authorized to be issued from time to time pursuant to the Redevelopment Law, the RAB Law and all other applicable law in an aggregate principal amount not to exceed \$2,000,000 (the “Bonds”). The Bonds shall be entitled: “Non-Recourse Redevelopment Area Bond (95 Challenger Road Urban Renewal, LLC Redevelopment Project)” and shall have such other words incorporated in such title, or shall have such words deleted from such title, as may be determined by the chief financial officer, the acting chief financial officer or the treasurer of the Village (the “Chief”

Financial Officer”). The proceeds of sale of the Bonds may be distributed by the Village to the URE for application to a portion of the costs of the Project.

Section 3. Project Cost and Maximum Amount of the Bonds. The total estimated cost of the Project is approximately \$69,984,797, the excess thereof over the maximum amount of the Bonds to be issued therefor being an amount to be contributed or provided by the URE. The maximum amount of bonds to be issued by the Village for the Project is \$2,000,000.

Section 4. Gross Debt Exclusion. Pursuant to the Redevelopment Law, the RAB Law, including, without limitation, N.J.S.A. 40A:12A-67(d) and all other applicable law, the Bonds shall not be considered gross debt of the Village on any debt statement filed in accordance with the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented, and, therefore, no supplemental debt statement is to be filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State in connection with this bond ordinance.

Section 5. Details, Form and Execution of Bonds. The Bonds shall be issued in the form of one certificate, shall be dated such date, shall bear interest at such rate or rates payable on such dates, shall mature on such dates and in such years, shall be subject to redemption upon such times and at such prices, shall be payable at such places, shall be subject to transfer on such terms, shall have such other details and shall be subject to such other terms and provisions all as shall be determined and approved by the Chief Financial Officer; provided, however, that the Bonds shall (i) mature no later than thirty-five (35) years from the date of issuance thereof, which, unless otherwise determined by the Chief Financial Officer after consultation with bond counsel to the Village, shall be issued approximately at the time of issuance of the certificate of occupancy for the Project, (ii) bear interest, if any, at a rate not greater than the Maximum Annual Interest Rate (as defined in, and determined in accordance with the provisions of, the Financial Agreement), (iii) be sold at a price not less than par and (iv) be subject to optional redemption at a price no greater than par. The Bonds shall be in substantially the form as other bonds previously issued by the Village with such changes, insertions and omissions as may be necessary to conform to the provisions of this bond ordinance and the Financial Agreement and as may be approved by the Chief Financial Officer after consultation with bond counsel to the Village, such approval to be evidenced by the signature of the Chief Financial Officer on the Bonds. The Bonds shall be executed in the name of the Village by the manual or facsimile signatures of the Mayor and the Chief Financial Officer, under the seal of the Village affixed, imprinted or otherwise reproduced thereon and attested by the manual signature of the Village Clerk or Acting Village Clerk (the “Village Clerk”).

Section 6. Bonds Constitute Special, Limited Obligations. The Bonds shall be special, limited obligations of the Village, payable solely out of the Annual Service Charge as described herein. The portion of the Annual Service Charge equal to the amount of debt service due on the Bonds during each such Annual Service Charge period (the “Pledged Annual Service Charge”) is hereby irrevocably pledged to the payment of the principal of and interest on the Bonds. The payment of the principal of and interest on the Bonds shall be secured by and be payable solely from the Pledged Annual Service Charge. Neither the members of the Board of Commissioners nor any person executing the Bonds issued pursuant to this bond ordinance shall be liable personally on the Bonds by reason of the issuance thereof. The Bonds shall not be in any

way a debt or liability of the Village other than to the limited extent set forth herein. Neither the full faith and credit nor the taxing power of the Village is pledged to the payment of the principal of and interest on the Bonds.

Section 7. Sale of the Bonds. The Chief Financial Officer is hereby authorized and directed to negotiate the sale of the Bonds from time to time to any willing purchaser, including without limitation an affiliate of the URE, subject to the limitations set forth in this bond ordinance.

Section 8. Transfer of the Bonds. The Bonds shall have such transfer restrictions as may be approved by the Chief Financial Officer after consultation with bond counsel to the Village. Simultaneously with the issuance and delivery of the Bonds, the purchaser of the Bonds shall deliver a letter addressed to the Village acknowledging and agreeing to such transfer restrictions.

Section 9. Limitation of Liability of the Village. The Village shall not incur any responsibility with respect to the Bonds other than as may be explicitly set forth herein, in the Bonds or in the Financial Agreement. No provision of this bond ordinance, the Bonds or any agreement, document, instrument or certificate executed, delivered or approved in connection with the issuance, sale, delivery or administration of the Bonds shall require the Village to expend or risk its own general funds, the obligations and liabilities of the Village hereunder being payable solely from the Pledged Annual Service Charge. In the event of any default by the Village hereunder, the liability of the Village to any person who shall be the registered owner of the Bonds (the "Bondholder") shall be enforceable only against the Pledged Annual Service Charge that may be made available for such purposes under the RAB Law and the Financial Agreement, and there shall be no other recourse for damages by the Bondholder against the Village, its officers, members, agents and employees, or any of the property now or hereafter owned by it or them. The Village, in its absolute discretion, may take such action as the Bondholder shall reasonably request, in order that the Bondholder may realize the benefits of the right to receive the Pledged Annual Service Charge; such action may include, but shall not be limited to, conducting an in rem tax foreclosure action in accordance with the provisions of N.J.S.A. 54:5-1 et seq.

Section 10. Construction. If any one or more of the provisions of this bond ordinance or the Bonds shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any other provision of this bond ordinance, and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Section 11. Authorized Officials and Further Action. The Mayor, Chief Financial Officer and Village Clerk (each, an "Authorized Officer") are hereby authorized and directed to do all matters necessary, useful, convenient or desirable to accomplish the sale, issuance and delivery of the Bonds, including, without limitation the negotiation, execution and delivery of a master trust indenture, a first supplemental indenture (and further supplemental indentures), a pledge agreement and any other agreements, instruments, documents or closing paperwork as such Authorized Officer, in consultation with counsel, shall deem necessary, useful, convenient or desirable to effectuate the purposes and transactions contemplated herein, all within the parameters set forth in this bond ordinance and the application submitted to the Local Finance Board.

Section 12. Capitalized Terms. All capitalized words and terms used but not

defined in this bond ordinance shall have the meanings ascribed to such words and terms, respectively, in the preambles to this bond ordinance.

Section 13. Effective Date. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption.



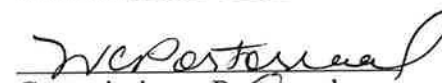
Commissioner Gerken



Commissioner MacNeill



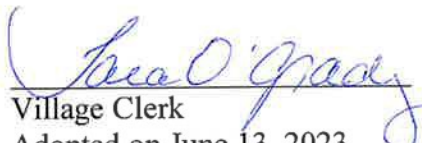
Commissioner Olson



Commissioner Portorreal



Mayor Anlian



Village Clerk
Adopted on June 13, 2023