

ORDINANCE NO. 2022-12

BOROUGH OF SPOTSWOOD

SPOTSWOOD, NEW JERSEY

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AN ORDINANCE OF THE BOROUGH OF SPOTSWOOD, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AUTHORIZING AND APPROVING A FINANCIAL AGREEMENT BETWEEN THE BOROUGH OF SPOTSWOOD AND RG SPOTSWOOD URBAN RENEWAL, LLC FOR THE 85 MAIN STREET (BLOCK 98, LOT 2; BLOCK 99, LOT 2; BLOCK 101, LOTS 2, 3, 4, 5 & 6) REDEVELOPMENT AREA PURSUANT TO THE LONG-TERM TAX EXEMPTION LAW, N.J.S.A. 40A:20-1 ET SEQ.

WHEREAS, by Resolution Number 2021-127 adopted on September 8, 2021, the Spotswood Borough Council directed the Planning Board to conduct a preliminary investigation pursuant to N.J.S.A. 40A:12A-6 to determine whether the properties designated on the Borough tax map as Block 98, Lot 2; Block 99, Lot 2 and Block 101, Lots 2, 3, 4, 5 & 6 (the “Properties”) qualifies as a non-condemnation area in need of redevelopment (the “Redevelopment Area”) according to the criteria set forth in Section 5 of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12-1 et seq.; and

WHEREAS, thereafter, by adoption of Ordinance No. 2022-8, the Borough adopted the 85 Main Street Redevelopment Plan (the “Redevelopment Plan”) for the Redevelopment Area; and

WHEREAS, the Redevelopment Plan provides a broad overview for the planning, development, redevelopment and rehabilitation of the Redevelopment Area for purposes of improving the conditions of same in a manner that is consistent with the Borough’s Master Plan; and

WHEREAS, the Borough Council has been designated as the “Redevelopment Entity” (as said term is defined in the Local Redevelopment and Housing Law, N.J.S.A. 40:A:12A-1 et seq.) for the purpose of implementing the Redevelopment Plan; and

WHEREAS, by Resolution 2022-93, the Borough Council designated RG Spotswood Urban Renewal, LLC (the “Redeveloper”) as the “redeveloper” of the Redevelopment Area, which consists of approximately 59.56 acres; and

WHEREAS, the Redeveloper is the owner in fee simple of the Property; and

WHEREAS, by Resolution 2022-120, the Borough Council authorized the execution of this Agreement with the Redeveloper to govern the redevelopment of the Property; and

WHEREAS, the Redevelopment Project proposed by the Redeveloper and described in the Redevelopment Agreement is an approximately 654,640 s.f. warehouse building/distribution center with ancillary and typical site improvements, all of which is permitted and expressly authorized under the Redevelopment Plan (the “Project”); and

WHEREAS, in connection with the Project, Redeveloper has requested that the Borough consider entering into a financial agreement pursuant to the LTTE Law; and

WHEREAS, in furtherance of such request, and in accordance with the LTTE Law, the Redeveloper submitted a written application, supplemented by a written application by the Redeveloper to the Borough for approval of a

tax exemption for the improvements to be constructed as part of the Project (the “Improvements”) (The Application and letter filing same is attached hereto as Exhibit A); and

WHEREAS, the LTTE Law permits the Borough to enter into financial agreements of the type proposed, exempting improvements of real property from tax assessment and accepting payments in lieu of taxes, where it is found that the property is qualified; and

WHEREAS, the Redeveloper has negotiated a Financial Agreement with the Borough in order to effectuate the redevelopment of the Property and the Project, which provides, inter alia, for payments in lieu of taxes, (A copy of said Financial Agreement is attached hereto and made a part hereof as Exhibit B); and

WHEREAS, the Borough Council finds and determines that the Project would not have been constructed without a tax exemption for the Improvements; and

WHEREAS, the Borough Council finds and determines that granting the Redeveloper exemption from taxation of the Improvements pursuant to the Financial Agreement, and receipt by the Borough of annual service charges in lieu of taxes, allows maximum redevelopment of the Redevelopment Area and is, therefore, in the best interests of the Borough, and, further, is in accordance with the provisions of the LTTE Law and the public purposes pursuant to which the redevelopment has been undertaken; and

WHEREAS, the Borough Council now deems it to be in the best interests of the Borough to approve the Application and adopt an Ordinance authorizing the Borough to enter into the Financial Agreement with the Redeveloper, on the terms and conditions stated in the Financial Agreement and as further set forth herein, including inter alia, the granting of a tax exemption.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Spotswood, County of Middlesex and State of New Jersey as follows:

Section 1. The Borough Council makes the determinations and findings contained herein by virtue of, pursuant to, and in conformity with the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq.

Section 2. 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 same.

Section 3. The Application attached hereto as Exhibit A is hereby approved.

Section 4. The Financial Agreement attached hereto as Exhibit B, with all exhibits thereto, is hereby authorized and approved.

Section 5. The Improvements, when constructed and deemed substantially completed, shall be exempt from real property taxation and, in lieu of real property taxes, the Redeveloper shall make payments to the Borough of an annual service charge during the term and under the provisions set forth in the Financial Agreement.

Section 6. Upon adoption of this Ordinance and execution of the Financial Agreement, a certified copy of this Ordinance and the Financial Agreement shall be transmitted to the State of New Jersey Department of Community Affairs, Director of the Division of Local Government Services.

BE IT FURTHER ORDAINED that the Mayor and Clerk of the Borough of Spotswood, and any other officials of the Borough of Spotswood, as may be applicable, are hereby each authorized to execute and deliver the Financial Agreement, a true and correct copy of which is attached hereto

as Exhibit B, as provided in the Application, together with any additional documents as are necessary to implement and carry out the intent of this Ordinance and the Financial Agreement.

BE IT FURTHER ORDAINED that all ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED that in the event any clause section or paragraph of this Ordinance is deemed invalid or unenforceable for any reason, it is the intent of the Borough Council that the balance of this Ordinance remains in full force and effect to the extent it allows the Borough to meet the goals of this Ordinance.

BE IT FURTHER ORDAINED that this Ordinance shall take effect after final adoption and publication according to law.

DATED: July 25, 2022

LARRY KRAEMER
Council President

ATTEST:

JENNIFER O'BRIEN
Acting Municipal Clerk