

TOWNSHIP OF UPPER DEERFIELD

ORDINANCE 848

AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH BRISTOL PONDS, UPPER DEERFIELD COMMERCIAL 2 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, such as the Township of Upper Deerfield (“**Township**”), to participate in the redevelopment and improvement of areas in need of redevelopment; and

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, on May 7, 2015, the Township Committee directed the Township planning board (“**Planning Board**”) to investigate whether that certain area of the Township commonly known as Block 1901, Lots 15, 15.02, 15.03, and 16 on the tax maps of the Township (the “**Property**”) constitutes an “area in need of redevelopment” as defined in the Redevelopment Law; and

WHEREAS, on December 14, 2015, the Planning Board conducted an investigation and prepared a study and map of the boundaries of the Township and made a recommendation to the Township Committee to designate the Property as an area in need of redevelopment; and

WHEREAS, on June 7, 2018, the Township Committee adopted Resolution 18-121 to have the Planning Board update its Area in Need of Redevelopment analysis; and

WHEREAS, the Planning Board conducted an investigation to update the study as part of which an updated Redevelopment Study dated July 6, 2018 was prepared entitled “Bristol Ponds Redevelopment Plan” (the “**Bristol Ponds Redevelopment Plan**”) and referred to the Planning Board for its review and recommendation by the Municipal Council; and

WHEREAS, on September 10, 2018, in accordance with the Redevelopment Law, the Planning Board of the Township reviewed the Bristol Ponds Redevelopment Plan and recommended its adoption; and

WHEREAS, on January 17, 2019, based upon the recommendation of the Planning Board, the Township Committee adopted a resolution to designate the Property as an “area in need of redevelopment” in accordance with the Redevelopment Law (the “**Redevelopment Area**”); and

WHEREAS, on March 21, 2019, after reviewing the Planning Board’s recommendation, the Township Committee adopted the Bristol Ponds Redevelopment Plan by Ordinance No. 798; and

WHEREAS, pursuant to Section 4 of the Redevelopment Law, the Township designated the Township Committee as the “**Redevelopment Entity**,” as such term is defined at *N.J.S.A. 40A:12A-3*, with full authority to exercise the powers contained in the Redevelopment Law to facilitate and implement the development of the Redevelopment Area; and

WHEREAS, the Property shall mean Block 1901, Lots 15.05, 15.06, 15.07 and 15.08 once the lot consolidation and subdivisions contained in the Resolutions are perfected.

WHEREAS, Bristol Ponds, Upper Deerfield Commercial 2 Urban Renewal, LLC (the “**Redeveloper**”) is the contract purchaser of Block 1901, Lot 15.07 (the “**Redeveloper Parcel**”) in the Redevelopment Area; and

WHEREAS, Bristol Ponds, Upper Deerfield Commercial 2 Urban Renewal, LLC (the “**Entity**”) will undertake the financing, design, construction and completion of a proposed restaurant to be located on Block 1901, Lot 15.07 (the design, development, financing and construction at the Property being hereafter referred to as the “**Project**”); 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 master plan of the Township; and

WHEREAS, the Entity filed (1) the application attached hereto as Exhibit A (the “**Application**”) seeking a tax exemption and approval of an urban renewal project and (2) a form of Financial Agreement (the “**Financial Agreement**”), pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 *et seq.* (the “**LTTE Law**”); and

WHEREAS, the Township has made the following findings:

1. The Redevelopment Area is currently underutilized and will benefit from the construction of a proposed restaurant, which will generate revenues and create jobs. The Project is expected to produce approximately 40 construction jobs and approximately 10 permanent jobs. Furthermore, the property generated approximately \$61,676 in real estate taxes per year. Upon stabilization, it is projected that the Project would pay an annual service charge of \$15,000, as well as total annual service charges of more than \$677,000 over the thirty (30) year term of the tax exemption. Upon expiration of the exemption, the Project will be fully assessed and conventionally taxed;

2. In light of market conditions and other factors currently impacting investment risk, it is not financially feasible to undertake the development of the Project in the absence of the tax exemption provided by this Agreement;

3. Given the scale of the Project and the risks associated with new construction development, without the exemption, the Entity would likely not have developed the Project in New Jersey; and

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

WHEREAS, pursuant to authorization provided by Township Committee Resolution adopted on February 16, 2023, the Township Committee and the Entity entered the Redevelopment Agreement for the development of the Project; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the Township 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 and the Annual Service Charge to be paid to the Township in lieu of conventional taxation; and

WHEREAS, the Township Committee has determined that the Project represents an undertaking permitted by the LTTE 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 Township, as authorized by the LTTE Law; and

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

WHEREAS, pursuant to authorization provided by Township Committee Resolution adopted on February 16, 2023, the Township Committee approved the Application filed by the Redeveloper.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER DEERFIELD, NEW JERSEY AS FOLLOWS:

1. An exemption from taxation as set forth in the Application is hereby granted to the Entity, with respect to the Improvements on the Project Site for the term set forth in the Financial Agreement; provided that in no event shall the tax exemption exceed the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) thirty (30) years from the Entity’s receipt of a Certificate of Occupancy for the Project 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 or the Project Site; 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 Project Site in the last full tax year it was subject to taxation.

2. The Mayor and/or Township Administrator, in consultation with counsel to the Township, 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 Township Clerk and filed with the Tax Assessor for the Township 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 Township relating to its construction and use, including the Redevelopment Plan.

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 Township 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 Agreement.

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

James Crilley, Chairman

Adopted: March 2, 2023

Attested:

Roy J. Spoltore, Township Clerk

First Reading: February 16, 2023

Publication: February 22, 2023

Publication of Final Adoption: March 8, 2023

EXHIBIT A

Application for Long Term Tax Exemption

EXHIBIT B

Financial Agreement