

TOWNSHIP OF UPPER DEERFIELD

ORDINANCE 864

ORDINANCE OF THE TOWNSHIP OF UPPER DEERFIELD, COUNTY OF CUMBERLAND, NEW JERSEY APPROVING A LONG-TERM TAX EXEMPTION AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH SIKA US 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, on May 29, 2001, the Township Committee directed the Township planning board (“**Planning Board**”) to investigate whether that certain area of the Township along the east and west sides of the 77 Corridor from Parsonage Road in Seabrook to Cornwell Drive encompassing portions of the Lots in Blocks 803, 905, 1206 and 1208, and all Lots in Blocks 1201, 1202, 1205 and 1207 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 August 13, 2001, 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 September 6, 2001, 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, a Redevelopment Plan (the “**Highway 77 Redevelopment Plan**) was adopted by Ordinance #566 on December 15, 2005 for the properties located within the Area in Need of Redevelopment; 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 Highway 77 Redevelopment Plan was amended by Ordinance 832 adopted on January 5, 2022; and

WHEREAS, the Highway 77 Redevelopment Plan was further amended by Ordinance No. 853 adopted on August 17, 2023 whereby a single site redevelopment plan was approved for the property shown on the municipal tax map as Block 1201, Lots 1 and 3, to be known as Block 1201 Lot 1 (the “**Subject Property**”); and

WHEREAS, the Sika Corporation was designated “Redeveloper” for the redevelopment of

the Subject Property; and

WHEREAS, Sika Corporation proposed to develop the Subject Property as a manufacturing facility to blend certain components or elements in the creation of building material products including: 1) Cementitious concrete repair mortars, grouts and tile setting products; 2) water-based architectural paints and coatings; 3) water-based waterproofing acrylic coatings; and 4) water-based admixtures for concrete with the intention to receive, warehouse, store ship building products, along with construction and industrial products (the “**Project**”); and

WHEREAS, Sika Corporation caused to be formed Sika US Urban Renewal LLC to construct and own the Project. Sika Urban Renewal LLC (“**Sika URE**” and together with Sika Corporation collectively referred to as “**Sika**”) is 100% owned by Sika Corporation, and Sika Corporation seeks to have Sika URE designated as Redeveloper in its place; and

WHEREAS, Sika URE is the owner of the Subject Property; and

WHEREAS, on April 18, 2024 the Redevelopment Entity reviewed and determined that Sika’s proposed project was consistent with the single site redevelopment plan and referred the project to the Upper Deerfield Township Planning Board for site plan review as memorialized in the Redevelopment Entity Resolution # 2024-03; and

WHEREAS, on June 10, 2024 Sika obtained site plan approval from the Upper Deerfield Township Planning Board as memorialized in Resolution # 4-2024, adopted on June 17, 2024 (the “Approved Plan”); and

WHEREAS, on June 20, 2024, the Upper Deerfield Township Redevelopment Entity granted Final Project Approval; approved the designation of Sika US Urban Renewal LLC as Redeveloper in substitution of Sika Corporation; and the approved and executed the Redevelopment Agreement; and

WHEREAS, the Redevelopment Agreement sets forth the terms and conditions for the redevelopment of the Project; and

WHEREAS, the Redevelopment Agreement includes as Exhibits the form of Financial Agreements for Long Term Tax Exemptions to be granted for the redevelopment of the Subject Property and the terms and conditions applicable to those Financial Agreements; and

WHEREAS, the Project will conform to the single site redevelopment as set forth in the Approved Plan, and will be in conformance with the master plan of the Township and the terms and conditions of the Redevelopment Agreement; and

WHEREAS, Sika US Urban Renewal LLC will undertake the financing, design, construction and completion of the Project; and

WHEREAS, the Redeveloper 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, on June 20, 2024, Township Committee approved the Application and Form of

Financial Agreement and directed the Clerk to prepare and introduce this Ordinance to be considered in accordance with applicable law; and

WHEREAS, the Township has made the following findings:

1. The Redevelopment Area is currently underutilized and will benefit from the construction of the Project. The Project is expected to produce approximately seventy (70) permanent jobs in addition to numerous construction jobs. Furthermore, the property generated approximately \$3,228.89 in 2023 in real estate taxes per year. Upon stabilization, it is projected that the Project would pay an annual service charge of \$900,000.00, as well as total annual service charges of more than \$27,000,000 over the thirty (30) year term of the tax exemption. Upon expiration of the exemption, the Project will be fully assessed and conventionally taxed; and

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; and

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, 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

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 Redeveloper 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: July 18, 2024

Attested:

Roy J. Spoltore, Township Clerk

First Reading: June 20, 2024

Publication: June 26, 2024

Publication of Final Adoption: July 24, 2024

EXHIBIT A

Application for Long Term Tax Exemption

EXHIBIT B

Financial Agreement