

ORDINANCE NO. 3411
INTRODUCED BY: COMMISSIONER THOMAS J. EVANS
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ORDINANCE NO. 3411

ORDINANCE OF THE TOWNSHIP OF NUTLEY AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH PB – 100 METRO URBAN RENEWAL, LLC AND GRANTING A TAX EXEMPTION

WHEREAS, the *New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”) authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the Redevelopment Law confers certain contract, planning and financial powers upon a redevelopment entity, as defined in Section 3 of the Redevelopment Law, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the Township of Nutley (the “**Township**”), in the County of Essex, State of New Jersey, has elected to exercise these redevelopment entity powers directly, as permitted by Section 4 of the Redevelopment Law; and

WHEREAS, on August 7, 2018, after conducting the requisite hearings therefor, the Board of Commissioners, via Ordinance No. 3392, adopted the plan entitled “Nutley Phase IIA Redevelopment Plan” (the “**Phase IIA Redevelopment Plan**”) for an approximately 11.88 acre portion of the Property shown and described as Lot V, Lot W, Lot X and Lot Y in the Phase IIA Redevelopment Plan created from a portion of Block 201, Lot 1, and Block 300, Lots 1 and 20 (to be consolidated and subdivided into up to four (4) new tax lots)(the “**Phase IIA Premises**”) in accordance with the provisions of the Redevelopment Law; and

WHEREAS, pursuant to the Redevelopment Law, including Section 8 thereof (*N.J.S.A. 40A:12A-8*), a municipality is permitted to contract with a redeveloper to undertake redevelopment projects pursuant to a redevelopment plan within an area in need of redevelopment, as all such terms are defined in the Redevelopment Law; and

WHEREAS, the Township intends to adopt a resolution authorizing the execution of a redevelopment agreement (as the same may be amended and supplemented in accordance with its terms (the “**Phase IIA Redevelopment Agreement**”) with PB – 100 Metro Urban Renewal, LLC (the “**Entity**”) or its affiliate in connection with the redevelopment of the Phase IIA Premises; and

WHEREAS, the Entity intends to implement on a portion of the Phase IIA Premises the renovation and improvement of Building 1 (now known as 100 Metro Boulevard, which is a seven-story building containing approximately 255,018 gross square feet of building area) and related site improvements located on Lot X within the Phase IIA Premises as illustrated in the Phase IIA Redevelopment Plan (the “**Building 100 Project**”); and

WHEREAS, as of the date hereof, the Entity or its affiliate has received preliminary and final major subdivision approval pursuant to Nutley Township Planning Board Resolution No. PB-18-00003 adopted on September 19, 2018 and preliminary site plan approval pursuant to Nutley Township Planning Board Resolution No. PB-18-00003 adopted on September 19, 2018, concerning, inter alia, the Building 100 Project; and

WHEREAS, the Entity has been qualified by the State of New Jersey to do business as an urban renewal entity under the provisions of the New Jersey Long Term Tax Exemption Law (the “**LTTE Law**”), and was created for the redevelopment, operation and maintenance of the Building 100 Project; and

WHEREAS, in order to improve the feasibility of the renovation, operation and maintenance of the Building 100 Project, the Township has considered certain proposed terms concerning a long term tax exemption and financial agreement, dated December 4, 2018, with respect to the Building 100 Project pursuant to the LTTE Law (the “**Proposed PILOT Terms**”); and

WHEREAS, the Entity has represented to the Township that the Building 100 Project would not be feasible in its intended scope but for the provision of financial assistance by the Township; and

WHEREAS, the Board of Commissioners has reviewed the Proposed PILOT Terms and wishes to approve the Proposed PILOT Terms to be memorialized in a financial agreement between the Township and the Entity, subject to the designation of the Entity (or its affiliate) as redeveloper of the Phase IIA Premises and the execution of a Phase IIA Redevelopment Agreement between Township and the Entity (or its affiliate); and

WHEREAS, the Township hereby finds that the relevant benefits of the Building 100 Project to the redevelopment of the Phase IIA Redevelopment Area (as defined in the Phase IIA Redevelopment Plan) outweigh the costs, if any, associated with the tax exemption, and in fact increase Township revenues over current levels by granting the long term tax exemption for the Building 100 Project, which relevant benefits are further described in the Proposed PILOT Terms and the financial agreement; and

WHEREAS, the Township hereby determines that the assistance provided to the Building 100 Project pursuant to the Proposed PILOT Terms to be memorialized in a financial agreement will be a significant inducement for the Entity to proceed with the Building 100 Project and that based on information set forth in the Proposed PILOT Terms, the Building 100 Project would not be feasible without such assistance.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF NUTLEY, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY, DO ORDAIN AND ENACT AS FOLLOWS:

I. GENERAL

The aforementioned recitals are incorporated herein as though fully set forth at length.

II. APPROVAL OF EXEMPTION FROM TAXATION

An exemption from taxation as set forth in the Proposed PILOT Terms is hereby approved with respect to the Building 100 Project in accordance with the terms set forth in the Proposed PILOT Terms to be memorialized in a financial agreement between the Township and the Entity; provided that in no event shall the term of the financial agreement exceed the term permitted by the LTTE Law and only so long as the Entity remains subject to and in compliance with the financial agreement and the LTTE Law and any other agreement related to the Building 100 Project and/or the Phase IIA Premises.

III. EXECUTION OF FINANCIAL AGREEMENT AUTHORIZED

(a) The Mayor is hereby authorized to execute a financial agreement between the Township and the Entity, incorporating the Proposed PILOT Terms, subject to additions, deletions, modifications, or revisions deemed necessary and appropriate in consultation with counsel.

(b) The Clerk of the Township is hereby authorized, upon the execution of the financial agreement in accordance with the terms of Section II (a) hereof, to attest to the signature of the Mayor upon such document and is hereby further authorized to affix the corporate seal of the Township upon such document.

(c) The Township Clerk shall file certified copies of this ordinance and the Financial agreement with the Tax Assessor of the Township and the Director of the Division of Local Government Services within the New Jersey Department of Community Affairs in accordance with Section 12 of the LTTE Law.

IV. ENTITY OBLIGATIONS

(a) The Building 100 Project shall conform with all Federal and State laws and ordinances and regulations of the Township relating to its construction and use.

(b) The Entity shall, in the operation of the Building 100 Project, comply and require compliance with all laws so that no person because of race, religious principles, color, national origin or ancestry, will be subject to discrimination.

(c) The Entity shall, from the time that the Annual Service Charge becomes effective, pay the Annual Service Charge as set forth in the financial agreement.

(d) The Entity shall complete the Building 100 Project within the timeframes set forth in the Phase IIA Redevelopment Agreement.

V. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

IV. ACTION REGARDING FINANCIAL AGREEMENT

The Mayor is hereby authorized to determine all matters and terms in connection with the financial agreement, all in consultation with the counsel to the Township, and the manual or facsimile signature of the Mayor upon any documents shall be conclusive as to all such determinations. The Mayor, the Township Clerk and any other Township official, officer or professional, including but not limited to, redevelopment counsel, the financial advisor and the auditor to the Township, are each hereby authorized to execute and deliver such documents as are necessary to facilitate the transactions contemplated hereby, and to take such actions or refrain from such actions as are necessary to facilitate the transactions contemplated hereby, in consultation with, as applicable, redevelopment counsel, bond counsel, the financial advisor and the auditor to the Township, and any and all actions taken heretofore with respect to the transactions contemplated hereby are hereby ratified and confirmed.

V. AVAILABILITY OF THE ORDINANCE

A copy of this Ordinance shall be available for public inspection at the offices of the Township.

VI. EFFECTIVE DATE

This Ordinance shall take effect according to law.