

O-07-22

AN ORDINANCE OF THE BOROUGH OF WHARTON, IN THE COUNTY OF MORRIS, NEW JERSEY AUTHORIZING THE EXECUTION OF THE SECOND AMENDMENT TO THE REDEVELOPMENT AGREEMENT AND THE FIRST AMENDMENT TO THE FINANCIAL AGREEMENT WITH WHARTON CHA URBAN RENEWAL, LLC

WHEREAS, by Resolution No. R-100-18 adopted on July 16, 2018, the Borough of Wharton (the “Borough”) Borough Council (the “Borough Council”) designated Block 1317, Lots 1 through 22 (which Lot 22 includes Lot 23 as Lot 23 is shown on the Borough Tax Maps as a distinct lot but the Borough Tax records have incorporated Lot 23 into adjacent Lot 22), along with all streets and rights of way appurtenant thereto, as a non-condemnation area in need of redevelopment (the “Redevelopment Area”) in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Redevelopment Law”); and

WHEREAS, by the adoption of Ordinance No. O-17-18 on October 15, 2018, the Borough Council duly adopted a redevelopment plan for a portion of the Redevelopment Area, constituting the hereinafter defined Project Site, entitled, “Main Street Redevelopment Plan Block 1317, Lots 1-23”, prepared by J. Caldwell & Associates, LLC (as the same may be amended and supplemented from time to time, the “Redevelopment Plan”); and

WHEREAS, on February 3, 2020, the Borough Council adopted Resolution R-51-20 designating the Wharton CHA Urban Renewal, LLC (the “Entity”) as “redeveloper” and authorizing the execution of a redevelopment agreement by and between the Borough and the Entity in connection with the redevelopment of Block 1317, Lots 1, 2, 3 and 9 (inclusive of former Lot 8) through 12, inclusive (the “Project Site” or “Land”), pursuant to the Redevelopment Law; and

WHEREAS, in order to implement the Redevelopment Plan, on February 4, 2020, the Borough and the Entity entered into that certain “Redevelopment Agreement”, which was approved by the Governing Body on February 3, 2020, pursuant to Resolution R-51-20, which was thereafter amended via the First Amendment to Redevelopment Agreement dated May 4, 2020, which was approved by the Governing Body on May 4, 2020, pursuant to Resolution 72-20 (collectively and as may be amended from time to time, the “Redevelopment Agreement”); and

WHEREAS, the Redevelopment Agreement sets forth the terms and conditions by which the Entity will undertake to redevelop the Project Site, by demolishing existing buildings thereon and constructing thereon a mixed-use development consisting of approximately 50 rental residential units, 3 units of which shall be affordable to very low, low, and moderate income households in accordance with the Redevelopment Plan and Redevelopment Agreement, approximately 6,900 square feet of commercial uses, and 16 residential townhome-style rental units, along with associated amenities and site improvements including all required on-site parking (collectively, the “Project”); and

WHEREAS, in order to improve the feasibility of the Project, the Entity applied to the Governing Body for a long-term tax exemption pursuant to the Long-Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. (the “Exemption Law”); and

WHEREAS, in accordance with the Exemption Law, the Parties entered into a financial agreement dated April 2, 2020, which was authorized by Ordinance No. 05-20 adopted by the Governing Body on March 9, 2020 (the “Financial Agreement”); and

WHEREAS, the Parties determined that former Lot 8 is included in Lot 7 and not in Lot 9 as originally thought, therefore former Lot 8 should not be included as part of the Project Site or Land; and

WHEREAS, the Parties desire to amend the Redevelopment Agreement to eliminate reference to former Lot 8 (the “Second Amendment to the Redevelopment Agreement”) and amend the Financial Agreement to eliminate reference to former Lot 8 and to provide for a land tax exemption for the residential portion of the Project (the “First Amendment to the Financial Agreement”); and

WHEREAS, the Borough Council desires to adopt the Second Amendment to the Redevelopment Agreement and the First Amendment to the Financial Agreement.

NOW THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WHARTON, IN THE COUNTY OF MORRIS, NEW JERSEY, AS FOLLOWS:

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

2. The Mayor is hereby authorized and directed to execute the Second Amendment to the Redevelopment Agreement, substantially in the form attached hereto as Exhibit A, together with such additions, deletions, and other modifications deemed necessary upon consultation with counsel to the Borough and other appropriate professionals, and prepare, amend, or execute any other agreements necessary to effectuate this ordinance, subject to modification or revisions as deemed necessary and appropriate.

3. The Mayor is hereby authorized and directed to execute the First Amendment to the Financial Agreement, substantially in the form attached hereto as Exhibit B, together with such additions, deletions, and other modifications deemed necessary upon consultation with counsel to the Borough and other appropriate professionals, and prepare, amend, or execute any other agreements necessary to effectuate this ordinance, subject to modification or revisions as deemed necessary and appropriate.

4. The Clerk of the Borough is hereby authorized and directed, upon execution of the Second Amendment to the Redevelopment Agreement and the First Amendment to

the Financial Agreement by the Mayor, to attest to the signature of the Mayor and to affix the corporate seal of the Borough upon such document.

5. The Borough Clerk shall file certified copies of this ordinance and the Amendment to the Financial Agreement with the Tax Assessor of the Borough in accordance with Section 12 of the Exemption Law.

6. In accordance with Section 12 of the Exemption Law, within ten (10) calendar days following the later of the effective date of this Ordinance or the execution of the Amendment to the Financial Agreement by the Entity, the Borough Clerk shall transmit a certified copy of this Ordinance and the First Amendment to the Financial Agreement to the chief financial officer of Morris County and to the Morris County Counsel for informational purposes.

7. The Mayor and Borough Clerk are hereby authorized to take such action and to execute such other documents, on behalf of the Borough, in consultation with Borough counsel and other appropriate professionals, as is necessary to effectuate the terms of the Redevelopment Agreement and Financial Agreement.

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

9. This Ordinance shall take effect in accordance with applicable laws.

First Reading: March 14, 2022
Second Reading: April 25, 2022

ATTEST:

BOROUGH OF WHARTON

Gabrielle Evangelista,
Borough Clerk

WILLIAM J. CHEGWIDDEN,
MAYOR

Exhibit A

Second Amendment to the Redevelopment Agreement

Exhibit B

First Amendment to the Financial Agreement