

THIS ORDINANCE SECURES BONDS OR OTHER OBLIGATIONS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE "REDEVELOPMENT AREA BOND FINANCING LAW" AND THE LIEN HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-MUNICIPAL LIENS HEREINAFTER RECORDED.

**THE CITY OF
EAST ORANGE, NEW JERSEY
ORDINANCE NO. 27 OF 2020**

**ORDINANCE OF THE CITY OF EAST ORANGE AUTHORIZING THE EXECUTION OF A
FINANCIAL AGREEMENT FOR PAYMENTS IN LIEU OF TAXES WITH RESPECT TO CERTAIN
PROPERTIES IDENTIFIED ON THE CITY'S TAX MAPS AS BLOCK 361, LOTS 22, AND 16
COMMONLY KNOWN AS 14 SUMMIT ST**

WHEREAS, the *New Jersey Local Redevelopment and Housing Law, N.J.5.A. 40A:12A-1 et seq.*, as amended from time to time (the "**Redevelopment Law**"), authorizes municipalities to determine whether certain parcels of land in a municipality constitute areas in need of redevelopment or rehabilitation, and to adopt a redevelopment plan for such areas, pursuant to which redevelopment projects are to be undertaken; 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 City of East Orange (the "**City**"), 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, by resolution dated January 30, 2012, the City subsequently designated the entire City as an area in need of rehabilitation in accordance with the provisions of *N.J.5.A. 40A:12A-14* (the "**Rehabilitation Area**"); and

WHEREAS, on April 19, 2012, by Ordinance No. 9-2012, the City Council adopted a redevelopment plan entitled "*City-Wide Redevelopment Plan for the City of East Orange*" for the Rehabilitation Area; and

WHEREAS, on December 28, 2015, by Ordinance 57-2015, the City Council adopted a redevelopment plan for the Transit Village District, entitled "*East Orange Transit Village District Redevelopment Plan*" (as same may be amended or supplemented from time to time, the "**Redevelopment Plan**"); and

WHEREAS, pursuant to the provisions of the *Local Redevelopment and Housing Law, 40A:12A-1 et seq.* (the "**Redevelopment Law**"), specifically including *N.J.5.A. 40A:12A-6(a)*, the City Council of the City (the "**Governing Body**") adopted Resolution No. _____ adopting the recommendations of the Planning Board and designating, among other properties, 14 Summit Street (Block 361, Lot 22) and 158 North Walnut Street (Block 361, Lot 16) (collectively, the "**Property**") as an "area in need of redevelopment," as such term is defined in the Redevelopment Law; and

WHEREAS, in furtherance of the objectives of the City, the Project consists of 78 residential units, including 11 studio apartments, 48 1-bedroom units and 19 2-bedroom units, with on-site parking and amenities to include a resident's lounge, fitness room, on-site laundry room, two roof-top terraces, available bike storage and mini-storage units (collectively, the "**Project**"), in accordance with the provisions of this Agreement and the Redevelopment Plan; and

WHEREAS, the Governing Body, by Resolution No. 1-16 of 2017 and as amended by Resolution No. 1-70 of 2018, appointed the Entity as the redeveloper of the Property; and

WHEREAS, the Entity will construct, or cause to be constructed, the Project on the Property; and

WHEREAS, the City and the Entity subsequently entered into a Redevelopment and Agreement dated as of _____ (the "**Redevelopment Agreement**"), in order to implement the Project; and

WHEREAS, despite the Entity's current and future substantial investment of "at-risk" equity and traditional borrowed funds for acquisition, development and construction of the Project, such amounts of equity and traditional borrowed funds are insufficient to pay for all of the costs associated with the acquisition, development and construction of the Project; and

WHEREAS, the Entity has submitted an application to the City for the approval of a long term tax exemption for the Project (the "**Application**") pursuant to the Exemption Law and the *Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 et seq.* (the "**Bond Financing Law**"), which Application is on file with the City; and

WHEREAS, after review of the Application, the Mayor recommended that the Application be approved on such terms as set forth in a proposed form of financial agreement (the "**Financial Agreement**") substantially in the form attached hereto as Exhibit A, and by this reference incorporated herein, as may be modified in consultation with counsel as set forth herein, and

WHEREAS, the City is agreeable to the long term tax exemption to the Entity for the Project and, in connection therewith, the City and the Entity will utilize the Bond Financing Law, the Exemption Law, and such other statutes as may be sources of relevant authority, if any, to facilitate financing of the Project; and

WHEREAS, the provisions of the Exemption Law, the Bond Financing Law, and such other statutes as may be sources of relevant authority, if any, authorize the City to accept, in lieu of real property taxes, an annual service charge paid by the Entity to City as set forth in such laws; and

WHEREAS, pursuant to the Bond Financing Law, specifically *N.J.S.A. 40A:12A-68*, the Annual Service Charge (as such term is defined in the Financial Agreement) shall, upon the recordation of this Financial Agreement and the Ordinance, constitute a municipal lien on the Hue Property and the Project within the meaning of such law; and

WHEREAS, pursuant to and in accordance with the provisions of the Bond Financing Law, specifically *N.J.S.A. 40A:12A-67(a)*, the City may issue bonds, may apply to an authority (as such term is defined in the Bond Financing Law) to issue bonds, or may cause the issuance of such bonds, which bonds may be secured by the Annual Service Charge; and

WHEREAS, in order to assist in financing certain costs of the Project relating to infrastructure improvements and other costs, the City intends to issue its Special Obligation PILOT Redevelopment Bonds (14 Summit), Series 20_ (such designation to reflect the year of issuance) in a principal amount not to exceed One million Dollars (\$1,000,000) (the "**Bonds**") in accordance with the terms of a bond resolution (the "**Bond Resolution**") and that certain Bond Agreement relating to the issuance of the Bonds (as the same may be amended, modified or supplemented from time to time, the "**Bond Agreement**") by and among the City, the Entity and the purchaser of the Bonds for the purpose of providing funds for the Project; and

WHEREAS, pursuant to the terms of the Financial Agreement, the Bond Resolution and the Bond Agreement and in accordance with the terms of the Bond Financing Law, specifically *N.J.S.A. 40A:12A-67(a)*, the Pledged Annual Service Charge (as defined in the Financial Agreement) shall be pledged to the payment of the principal or redemption premium of, and interest on, the Bonds, which Bonds will be **NONRECOURSE** to the City; and

WHEREAS, the Entity and the City have agreed that the Debt Service (as defined in the Financial Agreement) on the Bonds shall be paid from the Pledged Annual Service Charge and that the Unpledged Annual Service Charge (as defined in the Financial Agreement) may be used by the City for any lawful purpose in the exercise of the City's sole discretion; and

WHEREAS, the City has undertaken a policy to encourage jobs, both construction related and permanent, and redevelopment of underutilized areas within the City; and

WHEREAS, the City hereby finds that the relevant benefits of the Project to the redevelopment of the 14 Summit St Property outweigh the costs, if any, associated with the tax exemption, and in fact increase City revenues over current levels by granting the long term tax exemption for the Project, which relevant benefits are further described in the Application and the Financial Agreement; and

WHEREAS, the City hereby determines that the assistance provided to the Project pursuant to the Financial Agreement will be a significant inducement for the Entity to proceed with the Project and that based on information set forth in the Application, the Project would not be feasible without such assistance,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the City Council of the City of East Orange, in the County of Essex, State of New Jersey as follows:

I. **GENERAL**

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

II. **APPROVAL OF APPLICATION**

The Application submitted by the Entity is hereby approved.

III. **EXECUTION OF FINANCIAL AGREEMENT AUTHORIZED**

(a) The Mayor is hereby authorized and directed to execute the Financial Agreement, substantially in the form as it has been presented to the City Council, and attached hereto as **Exhibit A**, subject to additions, deletions, modifications, or revisions deemed necessary and appropriate in consultation with counsel.

(b) The Clerk of the City is hereby authorized and directed, upon the execution of the Financial Agreement in accordance with the terms of Section III(a) hereof, to attest to the signature of the Mayor upon such document and is hereby further authorized and directed to affix the corporate seal of the City upon such document.

(c) The City Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the City. In accordance with P.L. 2015, c. 247, within ten calendar days following the later of the effective date of this Ordinance or the execution of the Financial Agreement by the Entity, the City Clerk also shall transmit a certified copy of this Ordinance and the Financial Agreement to the chief financial officer of Essex County and to the Essex County Counsel for informational purposes.

IV. **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 and directed to determine all matters and terms in connection with the Financial Agreement, all in consultation with the redevelopment counsel to the City, and the manual or facsimile signature of the Mayor upon any documents shall be conclusive as to all such determinations. The Mayor, the Business Administrator, the Chief Financial Officer, the City Clerk and any other City official, officer or professional, including but not limited to, redevelopment counsel, bond counsel, the financial advisor and the auditor to the City, are each hereby authorized and directed 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 City, 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 City.

VI. EFFECTIVE DATE

This Ordinance shall take effect according to law.

Reconsidered by Council: ---*-----*