

**TOWN OF WEST NEW YORK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE #20/22

AN ORDINANCE OF THE TOWN OF WEST NEW YORK, COUNTY OF HUDSON, NEW JERSEY APPROVING THE PILOT AND AUTHORIZING THE MAYOR AND MUNICIPAL CLERK PURSUANT TO N.J.S.A. 40A:20-1 ET SEQ. TO EXECUTE A FINANCIAL AGREEMENT BY AND BETWEEN THE TOWN OF WEST NEW YORK AND RB III APTS URBAN RENEWAL LLC FOR THE PROPERTY LOCATED ON BLOCK 168.01, LOT 9.03 AS SHOWN ON THE OFFICIAL TAX MAP OF THE TOWN OF WEST NEW YORK AND LOCATED IN THE WATERFRONT REDEVELOPMENT AREA

WHEREAS, on the basis of a preliminary investigation and recommendation of the Planning Board of the Town pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., the Board of Commissioners of the Town determined that certain property known as waterfront property and more particularly described, at that time, on the Tax Maps as Block 168, Lots 3, 3.01, 4, 4.01, 5, 6, 6.01, 7, 7.01, which were subsequently subdivided to create new blocks and lots, and all air rights and riparian rights attached or associated with these parcels should be classified as a redevelopment area in accordance with N.J.S.A. 40A:12A-5 (the “Redevelopment Area”); and

WHEREAS, on April 17, 1996, the Board of Commissioners passed Ordinance 16/96, adopting the redevelopment plan of the Town of West New York for the Redevelopment Area (the “Redevelopment Plan”); and

WHEREAS, the Redevelopment Plan calls for the Redevelopment Area to be developed as a mixed residential community consisting of approximately 4,060 apartment and condominium units, 100,000 square feet of neighborhood retail space, and associated uses, including roadways, parking facilities, walkways, parks and other recreational amenities (collectively, the “Improvements”); and

WHEREAS, the Board of Commissioners designated Roseland/Port Imperial, L.L.C. (the “Prior Redeveloper”) as the redeveloper of the Redevelopment Area and has entered into the Redeveloper Agreement dated September 19, 1996, with RPI, setting forth the terms and conditions by which RPI will construct the Improvements within the Redevelopment Area (the “Redeveloper Agreement”); and

WHEREAS, the rights and obligations of the Prior Redeveloper under the Redeveloper Agreement have been assigned to and assumed by the various entities which have redeveloped the Redevelopment Area in accordance with the Redeveloper Agreement and the Redevelopment Plan; and

WHEREAS, Riverbend Building Company II, LLC received preliminary and final major subdivision approval and preliminary major site plan approval with variances and waivers for Block 168.01, Lots 9.01 (the “Property”) on October 5, 2020 and final major site plan approval on November 9, 2020 from the Town Planning Board for Riverbend III, a new 426-unit residential building, anticipated to be a market rate rental (the “Project”); and

WHEREAS, Block 168.01 Lot 9.03 shall be transferred by the Prior Redeveloper to RB III Apts Urban Renewal LLC (the “Entity”) for redevelopment of the Property for the Project; and

WHEREAS, the Entity was created for the purposes of acquiring, owning, holding, developing, maintaining, financing, mortgaging, improving, operating, leasing, managing, using, refinancing, selling, subdividing, or otherwise dealing with the Property and the Project; and

WHEREAS, pursuant to and in accordance with the provisions of the Long-Term Tax Exemption Law, constituting Chapter 431 of the Pamphlet Laws of 1991 of the State, and the acts amendatory thereof and supplement thereto (the “Long Term Tax Exemption Law”, as codified in N.J.S.A. 40A:20-1 et seq.), the Town is authorized to provide for payment in lieu of taxes within a redevelopment area; and

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

WHEREAS, in order to improve the feasibility of the Project, the Entity has requested a long-term tax exemption and financial agreement with respect to the Property pursuant to the Long-Term Tax Exemption Law; and

WHEREAS, after review of the request together with Town Attorney, redevelopment counsel and the Town’s financial advisor, the Mayor recommends that the long-term tax exemption and financial agreement be approved; and

WHEREAS, the Redeveloper has agreed to implement the Project in accordance with the Redevelopment Plan and in connection therewith, the Redeveloper agreed to devote substantial funds to the completion of the Project; and

WHEREAS, in addition to the profit limitations, the nature of the Project entails an inherent profit limitation to the Entity through the extra costs, issues, and responsibilities associated with the Project that are not present outside of the redevelopment context and there is a need recognized by the Legislature to provide incentives to render implementation of redevelopment feasible; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful Project, the Town will enter into a financial agreement with the Entity governing payments made to the Town in lieu of real estate taxes on the Project pursuant to the Long-Term Tax Exemption Law; and

WHEREAS, the provisions of the Long-Term Tax Exemption Law authorize the Town to accept, in lieu of real property taxes, an annual service charge (as defined in the financial agreement and referred to herein as the “PILOT”) to be paid by the Entity to the Town; and

WHEREAS, the PILOT shall be for 30-year term with an annual service charge based on 11.5% of annual gross revenues for years 1-5, increasing to 12% for years 6-10, 12.5% for years 11-15, 13% for years 16-20 and 14% for years 21-30; and

WHEREAS, the Town and the Entity have reached agreement with respect to, among other things, the terms and conditions relating to the PILOT and desire to execute a Financial Agreement.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Commissioners of the Town of West New York, County of Hudson, New Jersey, as follows:

Section 1. The Town acknowledges that RB III Apts Urban Renewal LLC, by effectuating the redevelopment of the Project, will significantly limit its profits due to the extraordinary costs to be borne by the Entity, which will provide significant and long-term benefits to the Town.

Section 2. The Town makes the following findings:

A. Relative benefits of the Project when compared to the costs:

1. The Property currently generates \$1,400,000 in real estate tax revenue. The projected Annual Service Charge over the 30-year term will generate an average annual revenue to the Town of approximately \$2,600,000.
2. It is estimated that the Project will create jobs during construction and permanent jobs.
3. The Project will further the redevelopment objectives of the Redevelopment Plan for Redevelopment Area.

4. The Town has determined that the benefits of the Project significantly outweigh the costs to the Town.
- B. Assessment of the importance of the tax exemption defined in obtaining development of the Project and influencing the locational decisions of probable occupants:
1. The relative stability and predictability of the Annual Service Charge will make the Project more attractive to investors and lenders needed to finance the Project; and
 2. The relative stability and predictability of the Annual Service Charge will allow stabilization of the Project operating budget, allowing a high level of urban design and aesthetics as well as the use of high quality materials which will maintain the appearance of the building over the life of the Project, which will insure the likelihood of the success of the Project and insure that it will have a positive impact on the surrounding area.
- C. Based upon the above determinations by the Town and the provisions of N.J.S.A. 40A:20-12, this Agreement contains appropriate tax exemption provisions and an appropriate Annual Service Charge schedule.

Section 3. The PILOT is hereby accepted and approved.

Section 4. The Financial Agreement shall be for a thirty (30) year term with an annual service charge based on 11.5% of annual gross revenues for years 1-5, increasing to 12% for years 6-10, 12.5% for years 11-15, 13% for years 16-20 and 14% for years 21-30, all in accordance with the Long-Term Tax Exemption Law.

Section 5. The Financial Agreement is hereby authorized to be executed and delivered on behalf of the Town by the Mayor in substantially the form attached hereto as Exhibit B. The Municipal Clerk is hereby authorized and directed to attest to the execution of the Financial Agreement by the Mayor and to affix the corporate seal of the Town to the Financial Agreement.

Section 6. This ordinance shall take effect upon final passage and publication as required by law.

Introduced: July 27, 2022

Adopted:

Notice

The foregoing Ordinance was adopted for first reading by the Mayor and Board of Commissioners of the Town of West New York, New Jersey, on **July 27, 2022** and ordered published, and will be further considered before final passage at a public hearing on **August 10, 2022 at 12:30 p.m.** held remotely and/or in person. Instructions regarding attendance and participation in the meeting will be posted on the Town's website: <http://www.westnewyorknj.org> . A copy of this Ordinance has been posted on the bulletin board upon which public notices are customarily posted on in the Town Hall of the Town of West New York, and a copy (at no charge) is available up to and including the time of such meeting to the members of the public of the Town who shall request such copies, at the Office of the Town Clerk in said Town Hall in West New York, N.J.