ORDINANCE OF THE CITY OF BAYONNE, COUNTY OF HUDSON, NEW JERSEY APPROVING THE APPLICATION AND FINANCIAL AGREEMENT FOR TAX EXEMPTION FOR AN URBAN RENEWAL PROJECT WITH RESPECT TO A PORTION OF THE BAYONNE MILITARY OCEAN TERMINAL LOCATED ON BLOCK 830, PORTION OF LOT 1.

WHEREAS, the City of Bayonne, in the County of Hudson, New Jersey (the “City”), a public body corporate and politic of the State of New Jersey (the “State”), is authorized pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Act”), to determine whether certain parcels of land within the City constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

WHEREAS, in accordance with the criteria set forth in the Act, the City identified and designated the Bayonne Military Ocean Terminal (the “Peninsula”) as an area in need of redevelopment; and

WHEREAS, previously, the Bayonne Local Redevelopment Authority (the “BLRA”) was designated as the “redevelopment entity” for the Peninsula pursuant to N.J.S.A. 40A:12A-4(c), with responsibility for implementing redevelopment plans and carrying out redevelopment projects on the Peninsula; and

WHEREAS, pursuant to a decision by the United States of America to decommission its facilities on the Peninsula, and while the BLRA was the redevelopment entity for the Peninsula, the Peninsula was conveyed to the BLRA pursuant to certain quit claim deeds dated September 28, 2001 and December 11, 2002, and recorded on October 3, 2001 and January 24, 2003, respectively; and

WHEREAS, by Ordinance No. 01-13-22 adopted on August 14, 2013, the City dissolved the BLRA pursuant to the Local Fiscal Control Law, N.J.S.A. 40:51-20, and became, as a matter of law, the successor-in-interest of all properties owned by the BLRA as of the date of the dissolution, including without limitation, all properties located on the Peninsula owned by the BLRA as of such date; and

WHEREAS, the City’s fee ownership of all properties owned by the BLRA, including those on the Peninsula, was confirmed by quitclaim deed from the BLRA to the City dated October 16, 2013 and recorded in the Register of Deeds of Hudson County, New Jersey on January 9, 2014, in Deed Book 8952, Page 477 et seq.; and

WHEREAS, the City has determined to act as the “redevelopment entity” for the property, designed as Block 830, portion of Lot 1 on the tax map of the City (the “Project Site”) which land is located on the Peninsula; and
WHEREAS, the City has adopted a redevelopment plan that includes the Project Site, entitled “Redevelopment Plan The Peninsula at Bayonne Harbor - Harbor Station North Redevelopment Area”; and

WHEREAS, the City shall adopt a new redevelopment plan for the Project Site (the “Redevelopment Plan”) which redevelopment plan shall supersede and replace all prior redevelopment plans applicable to the Project Site; and

WHEREAS, by Resolution adopted by the City on March 18, 2015, the City designated Bayonne Bay Developers Urban Renewal, LLC (f/k/a Bayonne Bay Developers, LLC) (the “Entity”), an urban renewal entity qualified to do business under the provisions of the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., as amended and supplemented (the “Long Term Tax Exemption Law”) as the “Redeveloper” for the Project Site, as defined in and permitted by the Act, and approved the execution of an amended and restated redevelopment and purchase and sale agreement between the Redevolver and the City providing for the acquisition and redevelopment of the Project Site by the Redevolver (the “Redevelopment Agreement”); and

WHEREAS, the Redevelopment Agreement recognizes and acknowledges the right of the Redeveloper to assign its interests thereunder to the Entity; and

WHEREAS, the proposed project to be undertaken on the Project Site is the construction of a multi-family, multi-building, multi-phase residential project, all as may be modified in connection with applications for site plan approval (the “Project”); and

WHEREAS, the Project shall conform to the Redevelopment Plan and will be in conformance with the master plan of the City; and

WHEREAS, the City has undertaken a policy to encourage jobs, both construction related and permanent, and has determined to, among other things, suspend certain affordable housing requirements in furtherance of such policy; and

WHEREAS, despite the Entity’s substantial investment of equity and borrowed funds, such amounts are insufficient to pay for all of the costs associated with the development and construction of the Project; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the Entity has submitted an application for the approval of the Project (the “Exemption Application”) and a form of financial agreement (the “Financial Agreement”) to the City for the approval of an urban renewal project, all in accordance with N.J.S.A. 40A:20-8; and

WHEREAS, pursuant to N.J.S.A. 40A:20-8, the Mayor has reviewed the Exemption Application and, by a letter dated ___________, a copy of which is attached hereto as Exhibit A (the “Mayor’s Recommendation”), the Mayor has submitted the Exemption Application and Financial Agreement to the City Council with his recommendation for approval, subject to the condition that the Entity pay, in lieu of tax payments on the Project, an annual service charge, such that the combined tax payment on the land and the annual service charge paid by the Entity
each year shall be no less than the amount of the total property taxes that would otherwise be owed on the Project Site, after redevelopment, if the Financial Agreement has not been executed; and

**WHEREAS**, upon review of the proposed Project, the Exemption Application and the Mayor’s Recommendation, the City has made the following findings with respect to the Project pursuant to N.J.S.A. 40A:20-11:

1. The Project Site is not currently developed to its maximum potential. The Project Site is vacant land. It was previously utilized as a military installation but is currently underutilized. Upon expiration of the exemption, the Project shall be fully assessed and conventionally taxed;

2. The construction of the Project will result in the creation of approximately 100 construction and approximately 25 permanent jobs;

3. The Project will generate significant amounts of new (otherwise unavailable) municipal revenues through the Annual Service Charge and water/sewer fees.

4. Given the uncertainty and instability of current economic and market conditions, the investment risk makes the financing of the Project infeasible in the absence of a tax exemption provided by the City;

5. Without the incentive of the tax exemption, it is unlikely that the Project would be undertaken and without the Project, the benefits described above would not be realized;

6. The tax exemption permits the development of underutilized property and provides a stream of revenue in the form of Annual Service Charges. The relative stability and predictability of the Annual Service charges will allow the owners and, by extension, the occupants, of the Project to stabilize their expenses, which will ensure the likelihood of the success of the Project and ensure that it will have a positive impact on the surrounding area.

7. The Financial Agreement was a material inducement to the Entity to undertake the Project in the City and facilitate the redevelopment of the Project Site; and

**WHEREAS**, in accordance with the provisions of the Long Term Tax Exemption Law, the City desires to approve the Project, the Exemption Application and the Financial Agreement.

**NOW THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF BAYONNE, NEW JERSEY AS FOLLOWS:**

Section 1. The Exemption Application submitted by the Entity is hereby approved in accordance with Section 8 of the Long Term Tax Exemption Law.

Section 2. The Mayor, in consultation with counsel to the City, is hereby authorized to execute the Financial Agreement and prepare, amend or execute any other agreements necessary to effectuate this ordinance, subject to modification or revisions, as deemed necessary and appropriate.
Section 3. The Clerk of the City is hereby authorized and directed, upon execution of the Financial Agreement by the Mayor, to attest to the signature of the Mayor and to affix the corporate seal of the City upon such document.

Section 4. Any exemption from taxation as set forth in the Financial Agreement is hereby granted to the Entity, with respect to the Project for the term set forth in the Financial Agreement; provided that in no event shall the term of the Financial Agreement exceed the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) to the extent permitted by the Long Term Tax Exemption Law, thirty (30) years from the Entity’s receipt of a Certificate of Occupancy (as defined in the Financial Agreement) for the Project and only so long as the Entity remains subject to and in compliance with the Financial Agreement and the Long Term Tax Exemption Law and; provided further, that the Entity does not file a petition of tax appeal for the Project or any part thereof.

Section 5. The executed copy of the Financial Agreement shall be certified by and filed with the Office of the City Clerk. Further, the Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the City and the Director of the Division of Local Government Services with the Department of Community Affairs, in accordance with Section 12 of the Long Term Tax Exemption Law.

Section 6. The Project shall conform with all federal, state and City laws, ordinances and regulations relating to its construction and use.

Section 7. The Entity shall, in the operation of the Project, comply with all laws so that no person of race, religious principles, color, national origin or ancestry will be subject to discrimination.

Section 8. The Entity shall, from the time the Annual Service Charge becomes effective under the Financial Agreement, pay to the City the estimated quarterly Annual Service Charge for the Project until the correct amount due from the Entity is determined by the certified financial audit report, required to be submitted under the terms of the Financial Agreement. After the report has been accepted by the City and within ninety (90) days thereafter, the City and the Entity shall adjust any over or underpayment so made or required to be made for the period covered by the certified audit report.

Section 9. This ordinance shall take effect in accordance with all applicable laws.