

**O-21-33**  
**7/14/21**

**ORDINANCE OF THE CITY OF BAYONNE, COUNTY OF HUDSON CONSENTING TO THE SALE OF THE PROJECT OF 175 WEST 7<sup>TH</sup> URBAN RENEWAL, LLC TO 175 W 7<sup>TH</sup> DEVELOPMENT URBAN RENEWAL LLC AND AUTHORIZING THE ASSIGNMENT OF THE FINANCIAL AGREEMENT BETWEEN THE CITY OF BAYONNE AND 175 WEST 7<sup>TH</sup> URBAN RENEWAL, LLC TO 175 W 7<sup>TH</sup> DEVELOPMENT URBAN RENEWAL LLC; AND TO AMEND THE ESTIMATED CONSTRUCTION SCHEDULE FOR THE PROJECT.**

**WHEREAS**, 175 West 7<sup>th</sup> Urban Renewal LLC (Entity), is an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq.; and

**WHEREAS**, the Entity owns certain property known as Block 304, Lots 1 and 3 on the Official Tax Map of the City of Bayonne (City), and more commonly known by the street address of 175 West 7<sup>th</sup> Street, Bayonne, New Jersey (Property); and

**WHEREAS**, by the adoption of Ordinance 0-18-46 on August 15, 2018 the Municipal Council of the City of Bayonne approved a 25-year tax exemption and authorized the execution of a Financial Agreement for a building consisting of fifty-six (56) residential units with a parking garage containing fifty-six (56) parking spaces along with associated amenities (Project);

**WHEREAS**, the Entity and the City entered into a Financial Agreement dated as of September 5, 2018 (Financial Agreement);

**WHEREAS**, in January 2021, the Entity has entered into a contract of sale to sell the Property and Project to 175 W 7<sup>th</sup> Development Urban Renewal LLC (New Entity);

**WHEREAS**, pursuant to Section 8.1 of the Financial Agreement, the City, upon receipt of a written application by the Entity, will not unreasonably withhold its consent to a sale of the Project and transfer of the Financial Agreement provided that the New Entity does not own any other projects that is subject to a long term tax exemption at the time of transfer; that the New Entity is formed and eligible to operate under the Long Term Tax Exemption Law; the Entity is not in default under the Financial Agreement; the Entity's obligations under the Financial Agreement are fully assumed by the New Entity; and the Entity pays in full the maximum transfer fee of 2% of the Annual Service Charge under NJSA 40A:20-10(d);

**WHEREAS**, the Entity filed a letter application dated June 14, 2021 with the City requesting the consent of the City to the sale of the Project to the New Entity, an assignment of the Financial Agreement to the New Entity; and an amendment to the Financial Agreement to update the Estimated Construction Schedule for the Project;

**WHEREAS**, the New Entity is an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law that does not own any other project that is subject

to a long term tax exemption and it has agreed to assume all of the obligations under the Financial Agreement;

**WHEREAS**, the Entity has agreed to pay the City the maximum transfer fee an amount equal to 2% of the estimated Annual Service Charge due under the Financial Agreement which is \$3,445.00; and

**WHEREAS**, in light of the foregoing, the City consents to the sale of the Project to the New Entity; authorizes the assignment of the Financial Agreement from the Entity to the New Entity; and authorizes an amendment to the Financial Agreement to update the Construction Schedule for the Project; subject to the Entity paying the transfer fee of \$3,445.00 from the proceeds of the sale of the Project no later than the date of the closing of title and delivery of deed for the Property.

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Bayonne that:

A. The Application of 175 West 7<sup>th</sup> Urban Renewal LLC to sell the Project to 175 W 7<sup>th</sup> Development Urban Renewal LLC; to assign the Financial Agreement to 175 W 7<sup>th</sup> Development Urban Renewal LLC; and to amend the Financial Agreement to update the Estimated Construction Schedule for the Project, is hereby approved, subject to (i) payment to the City of 2% of the Annual Service Charge as provided for in Section 8.1 of the Financial Agreement from the proceeds of the sale of the Project no later than the date of the closing of title and delivery of deed for the Property; and (ii) execution of a Consent to Assignment, Assignment and Assumption of the Financial Agreement and Amendment to the Financial Agreement to update the Estimated Construction Schedule for the Project;

B. The Mayor or Business Administrator is hereby authorized to execute a Consent to Assignment and Assignment, Assumption of the Financial Agreement and the Amendment to the Financial Agreement, as well as any other documents appropriate or necessary to effectuate the sale and transfer of the Project from the Entity to the New Entity.

C. The Consent to Assignment, Assignment and Assumption of the Financial Agreement and the Amendment to the Financial Agreement, shall be in substantially the form attached, subject to such modification as the Corporation Counsel or Business Administrator deems appropriate or necessary. This transfer is conditioned upon 175 W 7<sup>th</sup> Development Urban Renewal LLC acquiring title to the Property and the full execution of Consent to Assignment, Assignment and Assumption of the Financial Agreement and the Amendment to the Financial Agreement in accordance with the provisions of the New Jersey Long Term Tax Exemption Law.

D. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

E. This ordinance shall take effect at the time and in the manner provided by law.

### Summary

This project was previously approved and construction started when the developer experience financial issues. The project has been sold to a new developer who has the financing in place to restart the project and address the issues. As part of the transfer the City needs to approve the new entity and documents. None of the financial terms have changed