

O-18-67
11/7/18

ORDINANCE OF THE CITY OF BAYONNE, COUNTY OF HUDSON APPROVING A FINANCIAL AGREEMENT BY AND BETWEEN THE CITY OF BAYONNE AND DEVI MATA FLAGSHIP URBAN RENEWAL, LLC FOR THE PROPERTY IS IDENTIFIED AS BLOCK 751, LOT 1.03 AS SHOWN ON THE OFFICIAL TAX MAP OF THE CITY OF BAYONNE

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 "**Redevelopment Law**"), 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, the Municipal Council of the City (the "**Municipal Council**") adopted 9802-04-040, which designated the entire City of Bayonne as an area in need of rehabilitation in accordance with the provisions of *N.J.S.A. 40A:12A-14* of the Redevelopment Law; and

WHEREAS, Entity is the owner of certain property identified on the Tax Maps of the City as **Block 751, Lots 1.03** (the "**Property**") as more particularly described by the metes and bounds description set forth in the application submitted by the Entity (the "**Application**"); and

WHEREAS, the Property is located within an Urban Enterprise Zone (a "**UEZ**"); and

WHEREAS, the Property is located within the Harbor Station South redevelopment area (the "**Redevelopment Area**"), which has been designated as an area in need of redevelopment pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, as amended and supplemented (the "**Local Redevelopment and Housing Law**"); and

WHEREAS, pursuant to *N.J.S.A. 40A:12A-7*, on **January 20, 2016**, the City duly adopted **Ordinance 0-16-1**, approving the redevelopment plan entitled "Redevelopment Plan For The Peninsula at Bayonne Harbor - Harbor Station South" as amended by such ordinance (and as same may be further amended from time to time, the "**Redevelopment Plan**") for the Redevelopment Area; and

WHEREAS, **MAHALAXMI BAYONNE, LLC**, an affiliate of Entity, is the designated redeveloper of the Property pursuant to a Development and Purchase and Sale Agreement, dated **February 21, 2017** (the "**Redevelopment Agreement**"); and

WHEREAS, DEVI MATA FLAGSHIP, LLC, an affiliate of Entity, became the designated redeveloper of the Property pursuant to an assignment from **MAHALAXMI BAYONNE, LLC** dated **May 15, 2018**; and

WHEREAS, the proposed project to be undertaken on the Property consists of the construction of **a of a new 10-story residential development with associated facilities, including parking and amenities with approximately 598 units** together with related site improvements as set forth in the Application (the "**Project**"); and

WHEREAS, the Entity submitted an Application to the City for approval of an exemption for the Project pursuant to the Long Term Tax Exemption Law, which Application is attached hereto as **Exhibit A**; and

WHEREAS, DEVI MATA FLAGSHIP URBAN RENEWAL, LLC has applied to the City Council for tax exemption pursuant to the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et. seq. (the "Exemption Law") with respect to the Project; and

WHEREAS, the City Council finds that the requested tax exemptions will benefit the City and its inhabitants by furthering the redevelopment of the property which had remained underutilized and in disrepair for many years, and that the benefits would substantially outweigh the costs, if any, associated with the tax exemptions; and

WHEREAS, the City Council further finds that the requested tax exemptions are important to the City and that without the incentive of the tax exemptions, it is unlikely that the Project will be undertaken; and

WHEREAS, as part of its application for a tax exemption, **DEVI MATA FLAGSHIP URBAN RENEWAL, LLC** has submitted a form of Financial Agreement (the "Financial Agreement") providing for payments in lieu of taxes, a copy of which is attached to this Ordinance; and

WHEREAS, DEVI MATA FLAGSHIP URBAN RENEWAL, LLC has presented to this body certain financial information, copies of which are attached as exhibits to this Ordinance; and

WHEREAS, the City Council deems it to be in the best interest of the City to pass an Ordinance authorizing the City to enter into the proposed Financial Agreement with **DEVI MATA FLAGSHIP URBAN RENEWAL, LLC** on the terms and conditions stated in the applicable form of Financial Agreement attached to this Ordinance;

NOW, THEREFORE, be it Ordained that the City Council of the City of Bayonne does hereby adopt the tax exemptions for **DEVI MATA FLAGSHIP URBAN RENEWAL, LLC** as follows:

Section 1. The development of the Project is hereby approved for the grant of a tax exemption under the Exemption Law by virtue of, pursuant to and in conformity with the provisions of the Exemption Law.

Section 2. The Mayor is hereby authorized to execute a **25** year Financial Agreement with **DEVI MATA FLAGSHIP URBAN RENEWAL, LLC** at the greater of (a) **11%** of Gross Annual Revenue or **20%** of the otherwise applicable taxes until the **10th** anniversary of the ASC Commencement Date, (b) **11%** of Gross Annual Revenue or **40%** of the otherwise applicable taxes from the first day after the **10th** anniversary to the **15th** anniversary, (c) **12.5%** of Gross Annual Revenue or **60%** of the otherwise applicable taxes from the first day after the **15th** anniversary to the **21st** anniversary and (d) **14%** of Gross Annual Revenue or **80%** of the otherwise applicable taxes from the first day after the **21st** anniversary to the **25th** anniversary in substantially the form attached hereto and subject to any further review, analysis or modifications that counsel may deem appropriate.

Section 3. During the term of the tax exemption with respect to **DEVI MATA FLAGSHIP URBAN RENEWAL, LLC** there shall be paid to the City in lieu of any taxes to be paid on the improvements of the Project, an annual service charge determined as provided in the Financial Agreement and as set forth above.

Section 4. Counsel is authorized to prepare, and the Mayor is hereby authorized to execute, any additional documents that may be necessary to implement and carry out the intent of the Financial Agreement.

JFC/jc