

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 HEREAFTER RECORDED

Ordinance No. 20-09

ORDINANCE OF THE TOWNSHIP OF PLUMSTED, IN THE COUNTY OF OCEAN, NEW JERSEY AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED FINANCIAL AGREEMENT WITH RESPECT TO THE NEW EGYPT REDEVELOPMENT AREA

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as amended and supplemented (the “**Act**”) authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the Act confers certain contract, planning and financial powers upon a redevelopment entity, as defined in Section 3 of the Act, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the Township of Plumsted (the “**Township**”), in the County of Ocean, State of New Jersey, has elected to exercise these redevelopment entity powers directly, as permitted by Section 4 of the Act; and

WHEREAS, by Resolution No. 2009-112 adopted on February 2, 2009, the Township Committee of the Township (the “**Township Committee**”) designated the C-4 Zoning District as an area in need of redevelopment, and by Resolution No. 2019-310 adopted on November 6, 2019, the Township Committee designated Block 40, Lot 18 and reconfirmed the designation of Block 40, Lot 10 as an area in need of redevelopment in accordance with the Act (collectively, the “**Redevelopment Area**”); and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, by Ordinance No. 2004-5 adopted on March 22, 2004, as amended by Ordinance No. 2005-15 adopted on August 8, 2005 and by Ordinance No. 2014-07 adopted on August 6, 2014, and by Ordinance No. 2019-17 adopted on December 4, 2019, the Township Committee duly adopted, as amended from time to time, the “New Egypt Redevelopment Plan” (collectively, and as the same may be further amended, the “**Redevelopment Plan**”), which sets forth the Township’s plan for the redevelopment of the Redevelopment Area; and

WHEREAS, pursuant to the Act, including Section 8 thereof (N.J.S.A. 40A:12A-8), a municipality is permitted to contract with a redeveloper to undertake redevelopment projects pursuant to a redevelopment plan within an area in need of redevelopment, as all such terms are defined in the Act; and

WHEREAS, by Resolution No. 2013-234, the Township Committee designated Lennar Plumsted Urban Renewal, LLC (the “**Entity**”) (then known as Lennar Plumsted, LLC), as the “conditional redeveloper” of Block 40, Lot 10 on the tax maps of the Township (together with Block 40, Lot 18 on the tax maps of the Township, the “**Project Area**”) located within the Redevelopment Area; and

WHEREAS, on October 15, 2014, the Township and the Entity (then known as Lennar Plumsted, LLC) entered into a Redevelopment Agreement (the “**2014 Redevelopment Agreement**”), as amended by the First Amendment to Redevelopment Agreement dated October 8, 2018 to, among other things, include Block 40, Lot 10 on the tax maps of the Township in the Project Area (the “**First Amendment to Redevelopment Agreement**”, together with the 2014 Redevelopment Agreement, as the same may be amended, modified or supplemented from time to time the “**Redevelopment Agreement**”) in order to implement the development, design, financing and construction of the hereinafter defined Project pursuant to the Redevelopment Plan; and

WHEREAS, the Redevelopment Agreement provides for, among other things, (i) the construction by the Entity of the Project Area, and the development and construction thereon of a redevelopment project, including but not limited to the construction by the Entity of a minimum of four hundred (400) and a maximum of five hundred (500) units in an Active Adult Community (as defined in the Redevelopment Agreement), which the Entity intends as a for-sale, age-restricted project, with private interior roadways and a private amenity complex in the Project Area, together with onsite water and sewer utility systems (the “**Project**”), (ii) the design and construction, by or at the direction of the Plumsted Municipal Utilities Authority (“**PMUA**”), on behalf of, and at the cost of, the Township, of the Sewer Improvements (as defined in the hereinafter defined Amended Financial Agreement), which will serve the Project together with other portions of the Redevelopment Area and which may also serve other areas of the Township, and (iii) the construction, by and at the expense of such entity as may be approved by the Township, at no cost to the Entity, of the Water Improvements (as defined in the Amended Financial Agreement), which will serve the Project and which may also serve other areas of the Township (the improvements described in (ii) and (iii) hereof, collectively, the “**Improvements**”); and

WHEREAS, the Entity has been qualified by the State of New Jersey to do business as an urban renewal entity under the provisions of the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., as amended and supplemented (the “**LTTE Law**”), and was created for the implementation of 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 certain infrastructure improvements necessary for the Project; and

WHEREAS, pursuant to and in accordance with the provisions of the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 et seq., as amended and supplemented (the “**Bond Financing Law**”), the Township is authorized to provide for and accept, in lieu of real property

taxes, an annual service charge paid by the Entity to the Township in accordance with certain applicable provisions of the LTTE Law; and

WHEREAS, the Entity amended its incorporating documents which changed its name from Lennar Plumsted, LLC to Lennar Plumsted Urban Renewal, LLC in accordance and compliance with the LTTE Law for the purpose of undertaking the development of the Project Area pursuant to the Redevelopment Plan; and

WHEREAS, on April 25, 2017, the Entity submitted an application to the Township for approval of the Project as an urban renewal project and a financial agreement with respect to the Project, all in accordance with N.J.S.A. 40A:20-8, which application, as amended, is available for inspection in the office of the Township Clerk (as amended, the "**Exemption Application**"); and

WHEREAS, the Exemption Application and the Project were approved with respect to the Project Area pursuant to a resolution of the Township Committee duly adopted on June 7, 2017; and

WHEREAS, on June 21, 2017, the Township Committee finally adopted Ordinance Number 17-10 approving the execution of a financial agreement with respect to the Project and the parties executed said financial agreement on June 18, 2019 (the "**Original Financial Agreement**"); and

WHEREAS, the parties desire to amend and restate the Original Financial Agreement to, among other things, accommodate the revised Project Schedule (as set forth in the First Amendment to Redevelopment Agreement), which includes the construction of the Project in phases, and modify the term of the Original Financial Agreement; and

WHEREAS, pursuant to N.J.S.A. 40A:20-9, such proposed amendments to the Original Financial Agreement have been agreed to by the Township and the Entity, and the Mayor of the Township has, prior to the date hereof, recommended that the Amended and Restated Financial Agreement (in the form attached hereto as Exhibit A, the "**Amended Financial Agreement**") be favorably considered by the Township Committee, such Mayor's recommendation letter being on file with the Township Clerk for public inspection (the "**Mayor's Recommendation Letter**"); and

WHEREAS, pursuant to and in accordance with the provisions of the Redevelopment Law and the Bond Financing Law, specifically N.J.S.A. 40A:12A-67(a), the Township may issue bonds or may apply to an authority (as such term is defined in the Bond Financing Law) to issue bonds, which may be secured by the payments made by the Entity pursuant to the Amended Financial Agreement, including a Pledged Annual Service Charge and Redeveloper Payments (each as defined in the Amended Financial Agreement); and

WHEREAS, the Amended Financial Agreement contemplates that the Township, pursuant to and in accordance with the provisions of the Bond Financing Law, specifically N.J.S.A. 40A:12A-67(a), would issue non-recourse redevelopment area bonds (the "**Redevelopment Bonds**") in order to assist in financing all or a portion of the Improvements; and

WHEREAS, the Entity and the Township have agreed that the Debt Service Charge (as defined in the Amended Financial Agreement) in connection with the Redevelopment Bonds shall be paid from the Pledged Annual Service Charge (subject to the priority of the County Share (as defined in the Amended Financial Agreement)) and Redeveloper Payments, with any excess Annual Service Charge and Redeveloper Payments to be used by the Township for any lawful purpose in the exercise of the Township's sole discretion; and

WHEREAS, the Township hereby re-affirms the following findings with respect to the Project (the "**Project Findings**"):

- A. Relative benefits of the Project when compared to the costs:
 - i. The planned development of existing vacant land;
 - ii. Encourages development and expansion of properties in the Township industrial park and vacant light industrial areas;
 - iii. Promotes rehabilitation and infill construction of mixed-use buildings in the downtown redevelopment area; and
 - iv. Creates a vibrant, culturally interesting and attractive downtown area which serves as a growth center to attract new businesses and shoppers.
- B. Assessment of the importance of the tax exemption in obtaining development of the Project and influencing the locational decisions of probable occupants of the residential units in the Project:
 - i. But for the tax exemption and issuance of the Bonds, the Project would not be completed;
 - ii. Tax exemption will allow for completion of the Improvements; and
 - iii. The benefits of the tax exemption outweigh any costs.

WHEREAS, the Township Committee has reviewed the Exemption Application, the Mayor's Recommendation Letter and the terms of the Amended Financial Agreement, and desires to approve or re-approve the Project and the Amended Financial Agreement, as applicable; and

WHEREAS, the Township hereby determines that the assistance provided to the Project pursuant to the Amended 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 Township Committee of the Township of Plumsted, in the County of Ocean, State of New Jersey as follows:

I. GENERAL

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

II. EXECUTION OF AMENDED FINANCIAL AGREEMENT AUTHORIZED

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

(b) The Clerk of the Township is hereby authorized and directed, upon the execution of the Amended Financial Agreement in accordance with the terms of Section II(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 Township upon such document.

(c) The Township Clerk shall file certified copies of this ordinance and the Amended Financial Agreement with the Tax Assessor of the Township. 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 Amended Financial Agreement by the Entity, the Township Clerk shall also transmit a certified copy of this Ordinance and the Amended Financial Agreement to the chief financial officer of Ocean County and to the Ocean County Counsel for informational purposes.

III. ACTION REGARDING FINANCIAL AGREEMENT

The Mayor is hereby authorized and directed to determine all matters and terms in connection with the Amended Financial Agreement, all in consultation with counsel to the Township, and the manual or facsimile signature of the Mayor upon any documents shall be conclusive as to all such determinations. The Mayor, the Township Business Administrator, the Chief Financial Officer, the Township Clerk and any other Township official, officer or professional, including but not limited to, redevelopment counsel, bond counsel, financial advisor and the auditor to the Township, 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, financial advisor and the auditor to the Township, and any and all actions taken heretofore with respect to the transactions contemplated hereby are hereby ratified and confirmed.

IV. OTHER ACTIONS AND APPROVALS

(a) The Exemption Application, in accordance with the original Mayor's recommendation, and subject to the terms of the Redevelopment Plan, Redevelopment Agreement and applicable approvals and laws, is hereby confirmed and approved.

(b) Ordinance 19-10 of the Township, duly adopted on September 4, 2019, and entitled, "Ordinance of the Township of Plumsted Authorizing the Guaranty of the Township's Revenue Bonds (New Egypt Redevelopment Project) and, in Anticipation of the Issuance Thereof, a Construction Financing Program Note, Each in an Aggregate Principal Amount Not to Exceed \$34,000,000", is hereby amended to be consistent with the terms hereof and the terms of the Amended Financial Agreement and, following (i) the designation of Block 40, Lot 18 and reconfirmation of the designation of Block 40, Lot 10 as an area in need of redevelopment on

November 6, 2019 and (ii) the re-adoption of the Redevelopment Plan on December 4, 2019, Ordinance 19-10 is hereby confirmed, re-adopted and approved.

V. 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.

VI. AVAILABILITY OF THE ORDINANCE

A copy of this Ordinance shall be available for public inspection at the offices of the Township.

VII. EFFECTIVE DATE

This Ordinance shall take effect according to applicable law.

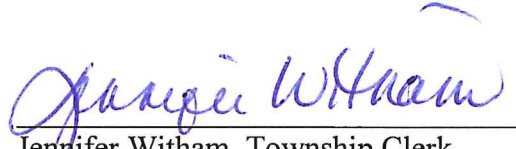
Record of Committee Vote on Final Passage				
COMMITTEE PERSON	AYE	NAY	NV/A	ABSENT
Herb Marinari	8/5/20 x	9/2/20 x		
Eric Sorchik	8/5/20 x	9/2/20 x		
Robert Bowen	8/5/20 x	9/2/20 x		
Leonard Grilletto	8/5/20 x	9/2/20 x		
Jack Trotta	8/5/20 x	9/2/20 x		

✓Indicates vote

NV = Not Voting, A = Abstain

I, Jennifer Witham, Township Clerk of Plumsted Township, in the County of Ocean, State of New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of this ORDINANCE No. 20-09, which was introduced by the Township Committee at a meeting duly called and held on the 5th day of AUGUST, 2020, and which was finally adopted by the Township Committee at a meeting duly called and held on the 2nd day of SEPTEMBER, 2020.

CERTIFIED BY ME THIS 4th DAY OF September, 2020



Jennifer Witham, Township Clerk