

Ordinance No. 2013-24

ORDINANCE AUTHORIZING THE TOWNSHIP OF FLORENCE, IN THE COUNTY OF BURLINGTON, NEW JERSEY TO ENTER INTO A FINANCIAL AGREEMENT BETWEEN THE TOWNSHIP AND DM URBAN RENEWAL, L.L.C. FOR CERTAIN PROPERTY WITHIN THE ROUTE 130 REDEVELOPMENT AREA

WHEREAS, on July 10, 2013, the Township Council (the "**Township Council**") of the Township of Florence, in the County of Burlington, New Jersey (the "**Township**") adopted Resolution 2013-147 declaring designated blocks and lots fronting Route 130 within the Township as an "Area In Need of Redevelopment" (the "**Route 130 Corridor Redevelopment Area**" or "**Redevelopment Area**") ; and

WHEREAS, the Township published notice that Resolution 2013-147 was adopted and after 45 days no actions were filed challenging such action;

WHEREAS, on August 23, 2013, the Township received notice from the Department of Community Affairs that the parcels identified in Resolution 2013-147 were effectively designated as a Redevelopment Area pursuant to the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 *et seq.*) (the "**Act**") ; and

WHEREAS, Block 158, Lots 7 and 8 is a roughly 110 acre site within the Township (the "**Property**") and is located in the Route 130 Corridor Redevelopment Area; and

WHEREAS, prior to its inclusion in the Redevelopment Area, the Property received approvals from the Planning Board of the Township of Florence (the "**Planning Board**") for development of warehouse/distribution buildings with related roadway and site improvements; and

WHEREAS, notwithstanding said approvals and consistent efforts to market it to potential tenants, the Property remains vacant; and

WHEREAS, Haines Center Florence, LLC, a Delaware limited Liability Company, as owner of the Property (the "**Owner**"), and Whitesell Construction Company, a New Jersey corporation overseeing development of the Property, have requested the Township to use its redevelopment powers to assist in making development on the Property feasible and the Township has agreed to provide assistance to allow the Property to be developed for the benefit of the Township and the remaining parcels within the Redevelopment Area; and

WHEREAS, on November 13, 2013, the Township Council adopted Resolution 2013-207(a) directing the Planning Board to develop a redevelopment plan for the Property; and

WHEREAS, the Planning Board directed its planning Consultant Barbara Fegley, AICP, PP of Environmental Resolutions, Inc. (the "**Professional Planner**"), to prepare a draft redevelopment plan concerning the properties; and

WHEREAS, on November 18, 2013, the Planning Board held a regularly scheduled meeting to review the draft plan entitled "Redevelopment Plan for 10000 and 1200 John Galt Way, the Haines Center, Block 158, Lots 7 and 8, Florence Township, Burlington County, New Jersey, dated November 14, 2013 and prepared by Barbara Fegley, AICP, PP, of Environmental Resolutions, Inc." (the "**Proposed Redevelopment Plan**"); and

WHEREAS, following a presentation by the Professional Planner and an opportunity for public comments, the Planning Board adopted Resolution No. PB-2013-23 entitled "Resolution of Memorialization Recommending that the Governing Body Adopt a Redevelopment Plan Concerning Block 158, Lots 7 & 8," and resolved that the Proposed Redevelopment Plan was consistent with the Township's Master Plan and recommending that the Proposed Redevelopment Plan be adopted by the Township Council; and

WHEREAS, on December 11, 2013, the Township Council finally adopted an Ordinance accepting the Proposed Redevelopment Plan as a redevelopment plan for the Property (the "**Redevelopment Plan**"); and

WHEREAS, the Owner entered into an Industrial Lease (the "**Lease**") whereby Owner leased to Destination Maternity Corporation ("**DMC**") a portion of the Property, consisting of approximately 51 acres and known as Lot 8 in Block 158 on the Tax Map of Township of Florence (the "**Parcel**"); and

WHEREAS, DMC assigned its rights and obligations pursuant to the Lease, and DM Urban Renewal, L.L.C. (the "**Entity**"), a New Jersey limited liability company duly organized and created under the Long Term Tax Exemption Law, codified at N.J.S.A. 40A:20-1 *et seq.* (the "**LTTE**"), assumed the same, pursuant to a certain Assignment and Assumption Agreement; and

WHEREAS, the Entity will enter into a Redevelopment Agreement with the Township to redevelop or cause the redevelopment of the Parcel with a warehouse, distribution and logistics facility with accompanying office space and other uses permitted by applicable zoning and the Redevelopment Plan (the "**Project**"); and

WHEREAS, the Township has previously granted the necessary land use approvals for the Project and the Owner, or its designee will apply to the Township Planning Board for any amendments to such approvals, if required, all of which will be in accordance with the Redevelopment Plan; and

WHEREAS, the Project will consist, more or less, of a first phase consisting of a warehouse, distribution and logistics facility with accompanying office space in the approximate size of 406,000 square feet and appurtenant site improvements, ("**Phase 1**") and a second phase consisting of potential future expansion of the building in the approximate size of 93,600 square feet and appurtenant site improvements, ("**Phase 2**");

WHEREAS, in accordance with the Long Term Tax Exemption Law, on December 3, 2013 the Entity submitted a written application (the “**Application**”) to the Township for approval of a tax exemption for the Project, a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, the Application stated and demonstrated that Project would not be viable without the tax exemption due to land costs and taxation issues at comparable sites in proximity to the Property; and

WHEREAS, the Township has concluded that (i) although a site plan approval has been in place for the Parcel for more than five years, no actual development has progressed; (ii) that the Redevelopment Area as a whole would benefit from the Project as it would lead to a "critical mass" of projects under way within the Redevelopment Area and lead to additional interest in investment from the development community; (iii) given differentials in land values and labor, taxation and utility costs, the Township's proximity to Pennsylvania requires a level of cooperation and diligence in attracting such investment; and (iv) that the Project will provide for the redevelopment of the Parcel into a productive, useful and job-creating property which is projected to result in the creation of both construction jobs and permanent jobs and that such a result is a direct benefit for the health, welfare and financial well-being of the Township; and

WHEREAS, to promote the viability of the Project and based on the Application, the Township desires to grant the requested tax exemption and approve a schedule of payments in lieu of taxes in accordance with the terms and provisions set forth in the financial agreement attached hereto as **Exhibit B** (the “**Financial Agreement**”); and

WHEREAS, the LTTE permits the use of financial agreements between municipalities and urban renewal entities to advance projects implementing a redevelopment plan for a duly designated redevelopment area; and

WHEREAS, the Project would be located in the Route 130 Redevelopment Area and would be constructed in accordance with the Redevelopment Plan; and

WHEREAS, the LTTE further requires that financial agreements entered into pursuant to its terms be approved by a municipal ordinance; and

WHEREAS, the Township Council desires to approve the Financial Agreement and authorize the Mayor to execute the same;

NOW THEREFORE BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF FLORENCE as follows:

Section 1. Recitals. The recitals are fully incorporated herein.

Section 2. Approval of the Financial Agreement. The Financial Agreement substantially in the form attached hereto as Exhibit A, together with any non-substantive changes as may be required, are hereby approved.

Section 3. Execution of the Financial Agreement. The Mayor of the Township of Florence, in the County of Burlington (the "Mayor") is hereby authorized and directed, upon satisfaction of all the legal conditions precedent to the execution and delivery by the Township of the Financial Agreement, to execute the Financial Agreement in substantially the form of the draft attached hereto and with such non-substantive changes, insertions and omissions thereto as the Mayor, after consultation with counsel to the Township, deems in the Mayor's sole discretion to be necessary or desirable for the execution thereof, which execution thereof shall conclusively evidence the Mayor's consent to any such changes thereto.

Section 4. Attestation and Sealing of the Financial Agreement. The Clerk of the Township is hereby authorized and directed, upon the execution of the Financial Agreement in accordance with the terms of Section 3 hereof, to attest to the signature of the Mayor upon such document and is hereby further authorized and directed thereupon affix the corporate seal of the Township upon such document.

Section 5. Implementation of the Financial Agreement. Upon the execution and attestation and placing of the seal on the Financial Agreement as contemplated by Sections 3 and 4 hereof, the Mayor and Township Administrator, together with the necessary staff and professionals of the Township, are hereby authorized and directed to (i) deliver the fully executed, attested and sealed document to the other parties thereto and (ii) perform such other actions as the Township Administrator deems necessary or desirable in relation to the execution and delivery of the Financial Agreement.

Section 6. 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.

Section 7. Availability Of The Ordinance. A copy of this Ordinance shall be available for public inspection at the offices of the Township.

Section 8. Effective Date. This ordinance shall take effect in accordance law.

I, Joy M. Weiler, Township Clerk of the Township of Florence, Burlington County, New Jersey, do hereby certify the foregoing to be a true and exact copy of Ordinance No. _____ which was finally adopted by the Township Council at a meeting held on the _____ day of _____, 2013.

PUBLIC NOTICE IS HEREBY GIVEN that an ordinance, the summary terms of which are included herein, was duly introduced and passed upon first reading at a regular meeting of the Township Council of the Township of Florence, in the County of Burlington, New Jersey, held on December 4, 2013. It will be further considered for final passage and adoption, after public hearing thereon, at a regular meeting of said Township Council to be held in the Municipal Building, 711 Broad Street, Florence, New Jersey on December 18, 2013 at 8:00 o'clock p.m. During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be made available at no cost and during regular business hours, at the Township Clerk's office in the Municipal Building to the members of the general public who shall request the same. The summary of the terms of such ordinance follows:

Title: **ORDINANCE AUTHORIZING THE TOWNSHIP OF FLORENCE, IN THE COUNTY OF BURLINGTON, NEW JERSEY TO ENTER INTO A FINANCIAL AGREEMENT BETWEEN THE TOWNSHIP AND DM URBAN RENEWAL, L.L.C. FOR CERTAIN PROPERTY WITHIN THE ROUTE 130 REDEVELOPMENT AREA**

Summary: Block 158, Lots 7 and 8 within the Township of Florence, Burlington County, New Jersey (referred to as the "Redevelopment Parcels") comprise approximately 110 acres of property located within the Route 130 Redevelopment Area. On December 11, 2013, the Township expects to adopt a redevelopment plan for the Redevelopment Parcels. The redevelopment plan is designed to facilitate development of warehouse and logistics space within two buildings and related parking and roadway improvements to be constructed on the Redevelopment Parcels.

This ordinance would approve a tax exemption for certain improvements to be constructed on Block 158, Lot 8, an approximately 51 acre portion of the Redevelopment Parcels. The improvements would consist of a warehouse, distribution and logistics facility with accompanying office space and other permitted uses (the "Improvements") to be constructed in one or two phases with a first phase consisting of a warehouse, distribution and logistics facility with accompanying office space in the approximate size of 406,000 square feet and appurtenant site improvements, and a second phase consisting of potential future expansion of the building in the approximate size of 93,600 square feet and appurtenant site improvements. In exchange for the tax exemption for the Improvements, the Township would receive scheduled payments in lieu of taxes (called "Annual Service Charges") pursuant to a Financial Agreement to be approved by the Ordinance. The term for the Tax Exemption would be 30 years from the date the certificate(s) of occupancy are issued for the Improvements. The authorization for the Township to enter into the Financial Agreement is granted under Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., which authorizes financial agreements as an incentive to construct projects in accordance with a redevelopment plan.

Copies of the Ordinance, the Financial Agreement to be approved thereunder and the schedule of Annual Service Charges are available for public inspection in the Office of the Florence Township Clerk.

JOY M. WEILER, RMC/MMC
TOWNSHIP CLERK