

BOROUGH OF MADISON

COUNTY OF MORRIS

ORDINANCE NO. 37-2014

**AN ORDINANCE AUTHORIZING THE BOROUGH OF MADISON, IN THE COUNTY OF MORRIS, NEW JERSEY TO ENTER INTO A FINANCIAL AGREEMENT WITH KRE MADISON NJ URBAN RENEWAL, LLC FOR PROPERTY AT 33 GREEN VILLAGE ROAD DESIGNATED AS BLOCK 3001, LOT 8**

WHEREAS, the Mayor and Council of the Borough of Madison adopted a resolution designating the property at 33 Green Village Road Block 3001, Lot 8 (the "Property") as an area in need of redevelopment in accordance with the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1, et seq.* (the "Redevelopment Area"); and

WHEREAS, thereafter the Mayor and Council adopted an Ordinance approving a redevelopment plan for the Redevelopment Area (the "Redevelopment Plan") pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1, et seq.*; and

WHEREAS, KRE Madison NJ Urban Renewal, LLC (the "Entity") proposes to construct 135 residential units, 7,500 sq. ft. of retail space and a 3,000 sq. ft. community center on the Property (hereinafter the "Project"); and

WHEREAS, the Entity wishes to have a long term tax exemption granted for the Project and has requested that the Borough grant such tax exemption; and

WHEREAS, on May 28, 2014, the Entity filed an Application with the Borough for approval of a long term tax exemption for the Improvements proposed for the Project as permitted by the Long Term Tax Exemption Law (*N.J.S.A. 40A 20-1, et seq.*) (the "LTTEL"); and

WHEREAS, the Borough is agreeable to granting a long term tax exemption for those Improvements; and

WHEREAS, the provisions of the LTTEL, and such other statutes as may be sources of relevant authority, if any, authorize the Borough to accept, in lieu of real property taxes, an annual service charge paid by the Entity to the Borough as set forth in such laws; and

WHEREAS, the Borough made the following findings:

- (a) As to the relative benefits of the Project:
  - i. The Project will provide economic activity within the Redevelopment Area, create jobs and yield significant municipal revenue.
  - ii. The property is currently tax exempt while the Financial Agreement is expected to generate at least \$710,000.00 in annual service charges.

- iii. The Project will convert underutilized property to productive residential and commercial use, in accordance with the Borough's redevelopment goals and objectives.
  - iv. The Borough will receive affordable housing funds of up to \$2,081,562.00 as the Project is built.
  - v. The Borough will have the use of a 3,000 sq. ft. community center and approximately 16,500 sq. ft. of outdoor open space as part of the Project.
- (b) As to the assessment of the importance of the tax exemption in obtaining development of the Project and influencing the locational decisions of probable occupants:
- i. In the current real estate marketplace, the rents likely to be achieved by this Project are not sufficient to pay for the costs of land and construction and the payment of full taxes while allowing the developer the opportunity to make a return on its investment that is sufficient to both warrant the risks and to convince the lending markets to provide the construction and permanent financing required by the Project.
  - ii. The Borough believes that amounts to be paid under the terms of the Financial Agreement are greater than the incremental costs to be incurred by the Borough as a result of the project, and believes that it is in its interest to provide the necessary incentive that will cause the project to be constructed. Because the formulas used in the Financial Agreement will provide for growth in the amounts to be paid over time, the Borough expects the Project will continue to make payments that are greater than the costs to be incurred. Finally, the useful life of the Project is expected to be substantially longer than the term of the Financial Agreement, so that in the future the Project will become fully taxable and remain part of the Borough's ratable base for many years thereafter; and

WHEREAS, the Mayor and Council have approved the Application, subject to such conditions as may be indicated herein, and have determined the amount of the Annual Service Charge, and have authorized the execution of the attached Financial Agreement; and

WHEREAS, Borough and the Entity wish to enter into this Financial Agreement to memorialize the terms and conditions by which the Entity will pay an Annual Service Charge (as defined therein) in lieu of real property taxes on the Project Improvements.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF MADISON, MORRIS COUNTY, NEW JERSEY that:

1. The recitals above are fully incorporated herein.
2. The application of the Entity is hereby accepted and approved subject to the modifications as set forth in the attached Financial Agreement.
3. The Mayor is hereby authorized and directed, subject to the satisfaction of all legal requirements and such specific conditions as are enumerated in

this Ordinance, to execute the Financial Agreement with the Entity, in substantially the form attached hereto, but with such non-material changes, insertions or deletions as the Mayor, in consultation with the Borough Attorney and Special Redevelopment Counsel to the Borough deems in his sole discretion necessary or desirable, with such execution by the Mayor to be deemed as conclusive evidence of the Mayor's consent to such changes, insertions or deletions.

4. The Borough Clerk is hereby authorized and directed, upon execution of the Financial Agreement in accordance with the terms of this ordinance, to attest to the signature of the Mayor and to affix the corporate seal of the Borough to that Financial Agreement.
5. This Ordinance shall not be in force and effect until such time as all of the following conditions have been satisfied.
  - a. The Entity has paid to the Borough all fees and charges required by the Financial Agreement to be paid as of the time of the execution of the Financial Agreement.
  - b. The Entity has submitted such additional information regarding the Application, as may be requested by the Borough.
6. The Borough Clerk is hereby authorized and directed to publish this Ordinance at the times and in the manner required by law and to make a copy of this ordinance available for inspection by the public at the offices of the Borough during the Borough's normal business hours.
7. The Borough Clerk is hereby authorized and directed to send a copy of this Ordinance and the executed Financial Agreement to the Director of the Division of Local Government Services in the NJ Department of Community Affairs.
8. This ordinance shall take effect upon final passage and publication in the manner provided by law.

ADOPTED AND APPROVED  
June 23, 2014

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ROBERT H. CONLEY, Mayor

Attest:

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ELIZABETH OSBORNE, Borough Clerk

Introduced and passed: May 28, 2014

Published, Madison Eagle: June 5, 2014

Hearing and consideration for final adoption: June 23, 2014

Published upon final adoption, Madison Eagle: June 26, 2014

Introduced:

I, Elizabeth Osborne, Borough Clerk of the Borough of Madison, County of Morris, State of New Jersey, hereby certify that at a Meeting of the Mayor and Council held on May 28, 2014, the foregoing Ordinance passed on first reading.

\_\_\_\_\_  
Elizabeth Osborne, Borough Clerk

Adopted:

Approved:

\_\_\_\_\_  
Robert H. Conley, Mayor

I, Elizabeth Osborne, Borough Clerk of the Borough of Madison, County of Morris, State of New Jersey, hereby certify that at a Meeting of the Mayor and Council duly held on \_\_\_\_\_ the foregoing Ordinance, previously published according to law, was adopted on second reading, approved by the Mayor, spread in full in the ordinance book, and published according to law.

\_\_\_\_\_  
Elizabeth Osborne, Borough Clerk

Adopted: