

ORDINANCE NO. 2015-9

**ORDINANCE OF THE TOWNSHIP OF BORDENTOWN, IN THE COUNTY OF BURLINGTON, NEW JERSEY AUTHORIZING AN AMENDMENT OF THAT CERTAIN FINANCIAL AGREEMENT WITH RESPECT TO PHASE I OF THE WATERFRONT REDEVELOPMENT PROJECT**

**WHEREAS**, acting in accordance with the Local Redevelopment and Housing Law, *N.J.S.A.* 40A:12A-1 *et seq.* (the “Redevelopment Law”), the Township of Bordentown, in the County of Burlington, New Jersey (the “Township”) previously designated that certain property identified on the Official Tax Map of the Township as Block 140, Lots 3, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 and Block 141, Lot 4 as an area in need of redevelopment pursuant to the Redevelopment Law (collectively, the “Redevelopment Area”); and

**WHEREAS**, on April 28, 2008, the Township finally adopted an ordinance to approve a Redevelopment Plan for the Redevelopment Area (the “Redevelopment Plan”); and

**WHEREAS**, on June 23, 2008, the Township and Bordentown Waterfront Community, L.L.C. (the “Redeveloper”) entered into that certain Amended and Restated Redevelopment Agreement (the “Redevelopment Agreement”) with respect to the development of a portion of the Redevelopment Area in accordance with the Redevelopment Plan (collectively, the “Project”); and

**WHEREAS**, on August 8, 2011, the Township adopted a resolution to approve the execution and delivery of a Project Finance Agreement between the Township and the Redeveloper (the “Project Finance Agreement”) to set forth the terms and conditions for implementation of the Redevelopment Plan by the Redeveloper in multiple phases and the provision by the Township of financial assistance for the Project pursuant to separate financial agreements; and

**WHEREAS**, on August 22, 2011, BWC Phase 1 Urban Renewal, LLC (the “Entity”), a limited liability company of the State of New Jersey authorized to operate as an urban renewal entity under the Long Term Tax Exemption Law, *N.J.S.A.* 40A:20-1 *et seq.* (the “Tax Exemption Law”) filed an application with the Township for a long term tax exemption with respect to Block 140, Lots 5, 6, 7 and 8 (the “Phase I Property”) for the Phase I Project (as such term is defined in the Project Finance Agreement); and

**WHEREAS**, on December 12, 2011, the Township finally adopted Ordinance 2011-23 authorizing a long term tax exemption for the Phase I Property and authorizing execution of a financial agreement with the Entity incorporating the terms and conditions of the Project Finance Agreement with respect to the Phase I Project (the “Financial Agreement”), which Financial Agreement has been executed and recorded against the Phase I Property; and

**WHEREAS**, on June 19, 2013, the Township finally adopted Ordinance 2013-11 to authorize the amendment, assignment and assumption of certain agreements to Bordentown Senior Residence Urban Renewal, LP (“BSR”) with respect to Phase IB Project (as such term is defined in the Financial Agreement) to be located on certain property identified on the Official Tax Map of the Township as Block 140, Lots 8 (the “Phase IB Property”); and

**WHEREAS**, BSR has failed to obtain financing for the Phase IB Project, as set forth in the financial application to the Township, and the Redeveloper subsequently determined to revise the redevelopment plan for the Phase IB Property; and

**WHEREAS**, on November 10, 2014, the Township finally adopted Ordinance 2014-28, to amend the Redevelopment Plan to incorporate the recommendations of the Bordentown Township Planning Board (the "Planning Board") to amend the permitted or conditional uses of certain areas of the Redevelopment Area, including the Phase I Property.

**WHEREAS**, Township desires to (a) repeal Ordinance 2013-11 and (b) to amend the Financial Agreement to incorporate the amendments to the Redevelopment Plan authorized by Ordinance 2014-28.

**NOW THEREFORE BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, IN THE COUNTY OF BURLINGTON, NEW JERSEY** (not less than two-thirds of all members thereof affirmatively concurring) as follows:

**1. REPEAL OF ORDINANCE 2013-11**

The Township hereby repeals Ordinance 2013-11.

**2. APPROVAL OF FIRST AMENDMENT TO FINANCIAL AGREEMENT**

The form of the First Amendment to Financial Agreement, as set forth in Exhibit A attached hereto and made a part hereof, is hereby approved. The Mayor is hereby authorized to execute and deliver the First Amendment to Financial Agreement on behalf of the Township, in substantially the form attached hereto, with such changes as counsel and the Township's Financial Advisor may advise and the Mayor shall approve, such approval to be evidenced by the Mayor's execution thereof. The Township Clerk is hereby authorized to attest to the execution of the First Amendment to Financial Agreement by the Mayor and to affix the corporate seal of the Township to such First Amendment to Financial Agreement.

**3. 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.

**4. EFFECTIVE DATE**

This Ordinance shall take effect in accordance with law.

INTRODUCED: JUNE 8, 2015

ADOPTED: JUNE 22, 2015