

BOROUGH OF HO-HO-KUS
COUNTY OF BERGEN, NJ

ORDINANCE 2022-70

AN ORDINANCE APPROVING AND AUTHORIZING THE BOROUGH OF HO-HO-KUS TO EXECUTE A FINANCIAL AGREEMENT WITH LMF HHK URBAN RENEWAL LLC

WHEREAS, by Resolution No. 20-38 pursuant to N.J.S.A. 40A:12A-6, the Borough of Ho-Ho-Kus directed the Planning Board of the Borough Ho-Ho-Kus (the “Planning Board”), to undertake a preliminary investigation to determine whether the area in the Borough of Ho-Ho-Kus, known and designated as Block 1016, Lots 3, 5 and 11, inclusive of any and all streets, and right of ways, as shown on the Official Tax Map of the Borough of Ho-Ho-Kus, commonly known as 619 North Maple Avenue, 217 First Street and 239 First Street, (the “Redevelopment Area”), meets the criteria of an area in need of redevelopment set forth in N.J.S.A. 40A:12A-5, without the use of eminent domain in accordance with Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Redevelopment Law”); and

WHEREAS, the Planning Board authorized Edward Snieckus, Jr., PP, LLA, ASLA, of Burgis Associates, Inc. (the “Planner”), to review the designation criteria and prepare a report to the Planning Board as to whether the Redevelopment Area meets the criteria of a non-condemnation redevelopment area, in accordance with N.J.S.A. 40A:12A-1, et seq.; and

WHEREAS, after reviewing the preliminary investigative report entitled “619 N. Maple Avenue, 217 First Street and 239 First Street, Area in Need of Redevelopment Study-Non-condemnation” dated May 5, 2020” prepared by the Planner, and convening a public hearing, the Planning Board meets the criteria set forth in N.J.S.A. 40A:12A-5(d) and (h) for redevelopment designation and recommended to the Mayor and Council that the delineated area be designated as a non-condemnation redevelopment area, in accordance with N.J.S.A. 40A:12A-1, et seq.; and

WHEREAS, at its regularly scheduled public meeting on July 21, 2020, on the basis of the Planning Board’s recommendation and the Planner’s investigative report and taking into account the public comments made, the Mayor and Council of the Borough of Ho-Ho-Kus adopted Resolution No. 20-89 designating Block 1016, Lots 3, 5 and 11, commonly known as 619 North Maple Avenue, 217 First Street and 239 First Street, respectively, as a non-condemnation redevelopment area; and

WHEREAS, by Resolution 20-90, the Mayor and Council of the Borough of Ho-Ho-Kus directed the Planning Board to prepare a redevelopment plan for the designated Redevelopment Area, which was prepared and entitled “619 N. Maple Avenue, 217 & 239 First Street Redevelopment Plan” dated July 12, 2021 (the “Redevelopment Plan”); and

WHEREAS, the Planning Board, after having considered the aforementioned report and having held a public hearing, recommended that the Mayor and Council adopt the Redevelopment Plan; and

WHEREAS, by Ordinance dated August 24, 2021, the Borough adopted the Redevelopment Plan; and

WHEREAS, the Mayor and Council, via Resolution 21-100, on or about August 24, 2021, designated LMF HHK Urban Renewal LLC (the “URE”) as the Redeveloper of the Redevelopment Area consistent with the Redevelopment Plan who proposes to construct 67 market rate residential rental units including 10 affordable rental units with related parking and onsite and offsite infrastructure improvements (hereinafter referred to as the “Project”) within the **Borough of Ho-Ho-Kus** on a portion of the site described as Block 1016, Lots 3, 5 and 11

as shown on the Official Borough Tax Map of the Borough of Ho-Ho-Kus, Bergen County, State of New Jersey; and

WHEREAS, URE is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. (the "Long Term Tax Exemption Law"); and

WHEREAS, URE is the contract purchaser of owner of Block 1016, Lots 3, 5 and 11 (the "Property"); and

WHEREAS, the Property is located in the Redevelopment Area, as required by the Long Term Tax Exemption Law, more specifically N.J.S.A. 40A:20-4; and

WHEREAS, URE has submitted an application on to the Borough for the approval of an urban renewal project, as such term is used in the Long Term Tax Exemption Law, all in accordance with the Long Term Tax Exemption Law, more specifically N.J.S.A. 40A:20-8 (the "Exemption Application"); and

WHEREAS, absent the tax incentives provided by the Long Term Tax Exemption Law, URE would likely not proceed with the Project; and

WHEREAS, Borough has determined after a detailed, critical evaluation, that the relative benefits of approving the Exemption Application outweigh the costs thereof and it is in the Borough's best interest;

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the Borough will enter into an agreement (the "Financial Agreement") with URE, governing payments made to the Borough in lieu of real estate taxes on the Property pursuant to the Long Term Tax Exemption Law; and

WHEREAS, the Entity has agreed to make payment of the Annual Service Charge (as defined in the Financial Agreement) to the Borough; and

WHEREAS, the Mayor has submitted the Exemption Application and Financial Agreement to the Borough Council with her recommendation for approval (the "Mayor's Recommendation"); and

WHEREAS, the Council has determined that the Project represents an undertaking permitted by the Long Term Tax Exemption Law, and has further determined that the Project is an improvement made for the purposes of clearance, replanning, development, or redevelopment of an area in need of redevelopment within the Borough, as authorized by the Long Term Tax Exemption Law and finds that the Project shall promote and further the redevelopment of the Borough.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL
OF THE BOROUGH OF HO-HO-KUS, NEW JERSEY AS FOLLOWS:**

1. The Mayor in consultation with counsel to the Borough is hereby authorized to execute and/or amend, modify or make such necessary changes to the Exemption Application, the Financial Agreement and any other agreements necessary to effectuate the Financial Agreement.
2. An exemption from taxation as set forth in the Financial Agreement is hereby granted to URE, with respect to the Project on the Property for the term set forth in the Financial Agreement; provided that in no event shall the tax exemption exceed the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) to the extent permitted by N.J.S.A. 40A:20-13, thirty (30) years from URE's receipt of a Certificate of Occupancy and only so long as the Entity remains subject to and complies with the Financial Agreement and the Long Term Tax Exemption Law and any other agreement related to the Project or the Property.
3. The executed copy of the Financial Agreement shall be certified by and be filed with the Office of the Borough Clerk.
4. The Project shall conform with all Federal and State law and ordinances and regulations of the Borough relating to its construction and use.

5. The URE shall, in the operation of the Project, comply with all laws so that no person because of race, religious principles, color, national origin or ancestry, will be subject to discrimination.
6. The Entity shall, from the time the Annual Service Charge becomes effective, pay the Annual Service Charge as set forth in the Financial Agreement.
7. The following occurrences are express conditions to the grant of this tax exemption to be performed by the URE:
 - (a) URE shall not, without prior consent of the Borough as set forth in the Financial Agreement, convey, mortgage or transfer all or any part of the Project which would sever, disconnect or divide the improvements being tax exempted under the Financial Agreement from the land underlying the exempted improvements.
 - (b) URE shall complete the Project within the timeframes set forth in the Redevelopment Agreement between URE and the Borough of Ho-Ho-Kus.
8. The Project will result in the redevelopment of the Borough by providing additional and improved residential development.
9. The Financial Agreement with URE is a necessary inducement to the undertaking of the Project.
10. A certified copy of this Ordinance and the Financial Agreement shall be transmitted by the Borough Clerk to the Director of the Division of Local Government Services, as required by N.J.S.A. 40A:20-12.
11. This Ordinance shall take effect after final passage and publication according to law.

STATEMENT

This Ordinance authorizes the Borough of Ho-Ho-Kus to enter into a Financial Agreement for the Payment in Lieu of Taxes with LMF HHK Urban Renewal LLC.

NOTICE OF PENDING ORDINANCE

This Ordinance published herewith was introduced and pass upon first reading at a meeting of the Municipal Council of the Borough of Ho-Ho-Kus, in the County of Bergen, New Jersey, held on May 24, 2022. It will be further considered for final passage after the public hearing thereon, at a meeting of said Municipal Council to be held at the Public Meeting on June 28, 2022, at 7:00 p.m. at which time and place all interested member of the public who desire will be given an opportunity to be heard in connection with said Ordinance, and during the week prior to and up to and including the date of such meeting, copies of said has been posted on the bulletin board upon which public notices are customarily posted in the Borough Hall and copies are available on the borough website www.ho-ho-kusboro.com for members of the general public who may request them.

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF AN ORDINANCE ADOPTED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF HO-HO-KUS AT THE PUBLIC MEETING ON June 28, 2022.

ATTEST:  Joan Herve, RMC, Borough Clerk

APPROVED:  Thomas W. Randall, Mayor

