

**SUSSEX BOROUGH
ORDINANCE NO. 2017-15**

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A
FINANCIAL AGREEMENT WITH RESPECT TO BLOCK 104, LOT 1.01, BLOCK 105,
LOT 1.03 AND BLOCK 106, LOT 1.02 IN THE BOROUGH OF SUSSEX**

WHEREAS, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (“**LHRL**”), certain property within the Borough of Sussex (“**Borough**”) known as Block 104, Lot 1.01, Block 105, Lot 1.03 and Block 106, Lots 1.02, 11, 12, 13 and 14 have been designated as an area in need of redevelopment (the “**Sussex Redevelopment Area**”), by Resolution of the Sussex Borough Council (“**Borough Council**”); and

WHEREAS, pursuant to the LHRL, certain property within the Township of Wantage (“**Township**”) known as Block 18, Lots 40, 41 and 43 and Block 18.01, Lot 1 have been designated as an area in need of redevelopment (the “**Wantage Redevelopment Area**”), by Resolution of the Wantage Township Committee (“**Township Committee**”); and

WHEREAS, by Ordinance adopted on November 26, 2013, pursuant to N.J.S.A. 40A:12A-4(a)(3) and -7, the Borough Council adopted a redevelopment plan for the Sussex Redevelopment Area, which may be further amended (“**Sussex Redevelopment Plan**”); and

WHEREAS, by Ordinance adopted on November 12, 2015, pursuant to N.J.S.A. 40A:12A-4(a)(3) and -7, the Township Committee adopted a redevelopment plan for the Wantage Redevelopment Area, which may be further amended (“**Wantage Redevelopment Plan**” and together with the Sussex Redevelopment Plan, the “**Redevelopment Plan**”); and

WHEREAS, on June 28, 2016, Sussex/Wantage 285 Urban Renewal, LLC (“**Entity**”) entered into a redevelopment agreement with the Borough and the Township (the “**Original Redevelopment Agreement**”) governing the Entity’s redevelopment of a portion of the Sussex Redevelopment Area and Wantage Redevelopment Area, specifically, Block 104, Lot 1.01, Block 105, Lot 1.03 and Block 106, Lots 1.02 and 14 as shown on the tax maps of the Borough of Sussex (“**Original Sussex Property**”) and Block 18, Lot 43 and Block 18.01, Lot 1 as shown on the tax maps of the Township of Wantage (“**Original Township Property**” and along with the Original Sussex Property, the “**Original Project Site**”) pursuant to the Redevelopment Plan; and

WHEREAS, pursuant to the Original Redevelopment Agreement and in accordance with the Redevelopment Plan, the Entity has agreed to develop on the Original Project Site an approximately 60,000 square foot supermarket and commercial retail space (“**Project**”), as further described in the Original Redevelopment Agreement; and

WHEREAS, the parties have determined that Block 106, Lot 14 of the Original Sussex Property and Block 18.01, Lot 1 of the Original Township Property are not needed for the development of the Project; and

WHEREAS, the parties are entering into the first amendment to the Original Redevelopment Agreement (“**First Amendment**”); the Original Redevelopment Agreement as

amended by the First Amendment, the “**Redevelopment Agreement**”) to remove the aforementioned Blocks and Lots from the description of the Original Project Site, resulting in the Project to be constructed on Block 104, Lot 1.01, Block 105, Lot 1.03 and Block 106, Lot 1.02 as shown on the tax maps of the Borough of Sussex (“**Sussex Property**”) and Block 18, Lot 43 as shown on the tax maps of the Township of Wantage (“**Township Property**”) and together with the Sussex Property, the “**Project Site**”);

WHEREAS, pursuant to N.J.S.A. 40A:20-1 *et seq.* (“**LTTE Law**”), the Entity has applied separately to the Mayor and Borough Council and to the Mayor and Township Committee for a financial agreement for the portion of the Project improvements to be located on the Project Site, and the LTTE Law authorizes the Borough to accept annual service charges in lieu of real property taxes paid by an urban renewal entity to the Borough; and

WHEREAS, by Resolution adopted prior to the adoption of this Ordinance, the Borough approved the Entity’s application for financial agreement for the Project (“**Application**”); and

WHEREAS, the Entity, Borough and Township have negotiated a proposed form of financial agreement covering the Project improvements located on both the Sussex Property and Township Property, a copy of which is on file with the Sussex Borough Clerk, and the Mayor and Council have determined that it is appropriate to approve the execution of a financial agreement with the Entity substantially in the form as filed with the Sussex Borough Clerk; and

WHEREAS, the Mayor and Borough Council make the following findings with respect to the relative benefits of the Project to the redevelopment of the Project Site when compared to the costs, if any, associated with the tax exemption:

- (a) The financial agreement is to the direct benefit of the health, safety, welfare and financial well-being of the Borough and its citizens;
- (b) The Project will accelerate the redevelopment of the Project Site by providing a new retail supermarket to an area that is under served by retail supermarkets, and which use will encourage and strengthen other commercial, retail and residential development; and
- (c) The Project will generate jobs, increase tax retables and provide public improvements and, when compared to the costs, if any, associated with the tax exemption, the Borough finds that the benefits outweigh the costs, recognizing that the Borough will retain ninety-five percent (95%) of the amount of the annual service charge.

WHEREAS, the Mayor and Borough Council make the following determinations assessing the importance of the tax exemption to be granted in obtaining the development of the Project and in influencing the locational decisions of probable occupants of the Project:

- (a) The financial agreement is a critical incentive for the Entity in obtaining development of the Project and influencing the locational decisions of the probable occupants of the Project;
- (b) The tax exemption permits the development of the Project by reducing the expenses associated with the development of the Project on a site that has been vacant, deteriorated and consists of substandard structures and obsolete infrastructure improvements and for

which the Borough has previously been seeking redevelopers; and
(c) Reduced expenses allows rents to be set at competitive levels which would not be the case if the costs incurred as part of development were required to be recovered through rents. As a result, the locational decisions of the probable tenants (residential and retail) will be influenced positively by the tax exemption.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Sussex, County of Sussex and State of New Jersey as follows:

Section 1. The findings set forth above are hereby adopted and made part of this Ordinance.

Section 2. Pursuant to the authority granted under the LTTE Law, this Ordinance authorizes the long term tax exemption with respect to the improvements of the Project on Block 104, Lot 101, Block 105, Lot 1.03 and Block 106, Lot 1.02 as shown on the official tax maps of the Borough of Sussex.

Section 3. The Mayor is authorized to execute the financial agreement substantially in the form attached hereto, and any other agreement or document related thereto deemed relevant and appropriate by counsel to the Borough in furtherance of the financial agreement and this Ordinance.

Section 4. The financial agreement herein authorized shall be subject to all requirements of the LTTE Law and all applicable federal, State and local laws and regulations.

Section 5. This Ordinance shall take effect immediately on its final passage and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the attached Ordinance #2017-15 was introduced at a regular meeting of the Mayor and Council of the Borough of Sussex, Sussex County, New Jersey, held on the 5th day of December, 2017, and passed on first reading, and that such Ordinance will be further considered for final passage and adoption at the regular meeting of the Mayor and Council to be held on the 19th day of December, 2017, at Borough Hall, 2 Main Street, in the Borough of Sussex, at 7:30 p.m., and that at such time and place all persons interested be given an opportunity to be heard concerning said Ordinance.

Antoinette Smith, Acting Borough Clerk

Katherine Little, Mayor

Introduced: December 5, 2017

Adopted: