

TOWNSHIP OF WASHINGTON

ORDINANCE NO. 4-2017

ORDINANCE OF WASHINGTON TOWNSHIP, COUNTY OF GLOUCESTER, NEW JERSEY PROVIDING FOR THE SHARING WITH THE WASHINGTON TOWNSHIP BOARD OF EDUCATION OF FORTY-FOUR PERCENT (44%) OF REVENUES GENERATED FROM THE PAYMENT IN LIEU OF TAXES INVOLVING THE WASHINGTON SQUARE PROJECT FINANCIAL AGREEMENTS

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Act") authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, on November 19, 2007, Washington Township ("Township") adopted an ordinance creating the Washington Square Redevelopment Area ("Redevelopment Area"), and created the Washington Square Redevelopment Plan to govern development in the Redevelopment Area, which was the subsequently revised on December 31, 2007, March 3, 2008, September 25, 2008, December 11, 2008, December 20, 2011, and October 6, 2016; and

WHEREAS, in November of 2008, the Township and Washington Township Planning Board as the Redevelopment Entity entered into a Redevelopment Agreement with Washington Square Partners, LLC; and

WHEREAS, on April 26, 2013, Washington Square Partners, now trading as Washington Square Urban Renewal, LLC ("Redeveloper"), submitted an application to the Township to have a Payment in Lieu of Taxes ("PILOT") Financial Agreement approved to help facilitate the construction of a proposed project under the terms of the Redevelopment Agreement, as is required by New Jersey's Long-Term Exemption Law, N.J.S.A. 40A:20-1 et seq.; and

WHEREAS, on July 10, 2013, the Township Council voted 3-2 against approving the Financial Agreement for reasons expressed on the record; and

WHEREAS, on August 26, 2013, Redeveloper filed a Complaint in Superior Court of New Jersey seeking to compel the Township to approve the Financial Agreement, which would provide for payment in lieu of taxes for the rental portion of the Washington Square Project; and

WHEREAS, the Township's professionals and the Redeveloper entered into settlement negotiations and negotiated a Revised Financial Agreement and a proposed Amendment to the Redevelopment Agreement for the Township's consideration, which the Redeveloper found to be acceptable; and

WHEREAS, the redeveloper submitted an application to approve the Revised Financial Agreement on December 9, 2014; and

WHEREAS, the revised Financial Agreement and Amendment to the Redevelopment Agreement were presented to the Township Council for approval during a public hearing held on December 10, 2014 and the Township Council voted to table the Ordinance and Resolution approving the Agreements; and

WHEREAS, the Township's professionals conducted further settlement discussions with the Redeveloper, and said discussions culminated in both a modified Financial Agreement ("Modified Financial Agreement") and a modified Amendment to the Redevelopment Agreement; and

WHEREAS, two of the agreed-upon modifications to the Financial Agreement were made to address issues raised by the Washington Township Board of Education ("BOE") at the December 10, 2014, Township Council meeting; and

WHEREAS, on February 20, 2015, the Redeveloper submitted an amended application to approve the modified Financial Agreement; and

WHEREAS, on February 25, 2015, the Mayor submitted a letter to the Township Council forwarding the amended application and the Modified Financial Agreement, and recommended (as required by the relevant statutes including N.J.S.A. 40A:20-9), that the Township Council consider said amended application and Modified Financial Agreement; and

WHEREAS, on March 4, 2015, the Township Council held a public meeting to discuss both the Modified Financial Agreement and the modified Amendment to the Redevelopment Agreement, and members of the BOE raised concerns that part of the revenues collected under the Modified Financial Agreement should be allocated to the BOE to benefit the BOE via a separate agreement; and

WHEREAS, during the March 4, 2015, meeting, the Township's professionals and members of the Township Council expressed the view that they wanted to provide revenues from the Modified Financial Agreement to the BOE to ensure that any students generated from the residential units in the Washington Square Project could be educated without an undue burden upon the BOE; and

WHEREAS, negotiations commenced to determine a percentage of the PILOT revenues to be allocated to the BOE via a separate agreement; and

WHEREAS, through good faith negotiations, members of the Township Council and members of the BOE, including the BOE president and the Township Council President, agreed said percentage to be allocated to the BOE would be forty-four (44%) of the annual revenues paid to the Township in lieu of real property taxes net the administrative fee and any portion of the revenues paid to the County of Gloucester; and

WHEREAS, on March 11, 2015, the Washington Township Council approved a Resolution allocating forty-four percent (44%) of the revenues paid to the Township from the Washington Square Project to the BOE; and

WHEREAS, the March 11, 2015 Resolution of the Township stated that the specific terms of any agreement between the Township and the BOE would be finalized through the adoption of an ordinance by the Township and resolution of the BOE after the Washington Square Modified Financial Agreement and the modified Amendment to the Redevelopment Agreement were fully approved by the Township Council, and after the Washington Square litigation with the Township is properly settled, dismissed with prejudice, and all appeals were fully resolved; and

WHEREAS, on March 12, 2015, the BOE approved a Resolution in agreement with the March 11, 2015, Township Council Resolution, whereby the BOE would receive forty-four percent (44%) of the revenues paid to the Township from the Washington Square project, in an effort to help fund the education of school children generated from said Project, and whereby the BOE would enter into an agreement with Township Council incorporating terms of the March 11, 2015 Township Council Resolution, upon finalization of the Modified Financial Agreement and the Amendment to the Redevelopment Agreement by Township Council; and

WHEREAS, on May 14, 2015, the Township approved a PILOT Agreement with the Redeveloper for a project to be constructed on Block 115 Lots 3 and 3.01 on the Official Tax Map of the Township of Washington consisting of 70,000 sf of retail space, 100,000 sf of office space and 330 rental apartments, and calling for an annual payment in lieu of taxes on the Project improvements equal to 12% of the annual gross revenue from the Washington Square Project; and

WHEREAS, on May 14, 2015, the Township and the Redeveloper entered into a PILOT Agreement establishing the terms of a tax exemption and the obligations of the Redeveloper; and

WHEREAS, the Township and the Redeveloper determined that it was the best interest of the Township and the Redeveloper to transfer the rights and obligations under the PILOT Agreement to three separate related, newly-formed urban renewal entities, each of which is responsible for the development of a specific component of the project, along with the

Redeveloper which is responsible for the development of its specific component of the Project;
and

WHEREAS, the Township approved Ordinances No. 21,22,23, and 24-2016, authorizing the Township to enter into four separate Financial Agreements with the Succeeding Entities as successors in interest to the Redeveloper ("Project Component Financial Agreements");and

WHEREAS, the Washington Square litigation with the Township is properly settled, dismissed with prejudice, and all appeals are fully settled, and

WHEREAS, the Township and BOE have authorized the execution of the Agreement;
and

WHEREAS, the Township and the BOE enter into this Agreement to memorialize the terms and conditions by which the Township will pay the BOE forty-four percent (44%) of the Annual Service Charge (as defined herein) paid to the Township from the Washington Square Project.

NOW, THEREFORE BE IT ORDAINED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WASHINGTON, NEW JERSEY AS FOLLOWS:

Section 1. The Recitals are incorporated by reference as if set forth in full.

Section 2. In recognition of the importance of contributing to the education of the students who live in the Washington Township community, and in an effort to help fund the education of school children generated from the Washington Square Project, the BOE will be provided with forty-four (44%) of the Annual Service Charge Component to the extent paid to the Township from the Washington Square Project Component Financial Agreements, during the term of such Agreements or any successor agreements net of the administrative fee and any portion of the payment paid to the County of Gloucester.

Section 3. The Township shall distribute the funds to the BOE within 30 business days after the receipt and collection of the Annual Service Charge (Payment in Lieu of Taxes) by the Township as defined in the Project Component Financial Agreements. The Annual Service Charge is defined as the amount the Redeveloper has agreed to pay the Township within the Project Component Financial Agreements between the Township and the Redevelopers in lieu of any taxes on the improvements.

Section 4. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof.

Section 5. All Ordinances or parts of ordinances of the Township of Washington heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 6: This Ordinance shall take effect thirty (30) days after final passage by Council or twenty (20) days after approval by the Mayor, whichever comes first.

INTRODUCTION:

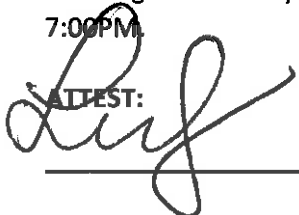
| | Motion | Second | Ayes | Nays | Abstain | Absent | Recuse |
|------------|--------|--------|------|------|---------|--------|--------|
| Donato | | | | | | | X |
| Longfellow | X | | X | | | | |
| Pasqualone | | | X | | | | |
| Perry | | | | | | | |
| Fazio | | X | X | | | | X |

TOWNSHIP OF WASHINGTON

BY: 

Nick Fazio, Council President

I do hereby attest the above Ordinance 4-2017 was introduced at the Township of Washington Meeting on February 22, 2017. A public hearing and adoption will occur on March 8, 2017 at 7:00PM.

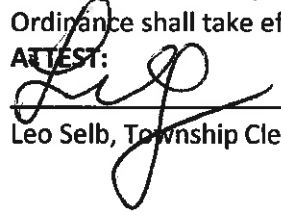
ATTEST: 

Leo Selb, Township Clerk

ADOPTION:

| | Motion | Second | Ayes | Nays | Abstain | Absent | Recuse |
|------------|--------|--------|------|------|---------|--------|--------|
| Donato | | | | | | | X |
| Longfellow | | X | X | | | | |
| Pasqualone | | | X | | | | |
| Perry | | | | | | | X |
| Fazio | X | | X | | | | |

I do hereby attest the above Ordinance 4-2017 was adopted at the Township of Washington Meeting on March 8, 2017 by Township Council after a public hearing on March 8, 2017. Said Ordinance shall take effect in accordance with law.

ATTEST: 

Leo Selb, Township Clerk

On this 14th day of March 2017, I hereby approve the above Ordinance.


Joann Gattinelli, MAYOR