

ORDINANCE NO. 2016-25
ORDINANCE AUTHORIZING THE TOWNSHIP OF FLORENCE, IN
THE COUNTY OF BURLINGTON, NEW JERSEY TO ENTER INTO AN
AMENDMENT TO A FINANCIAL AGREEMENT BETWEEN THE
TOWNSHIP AND TURNPIKE CROSSINGS III URBAN RENEWAL,
L.L.C. FOR CERTAIN PROPERTY WITHIN THE ROUTE 130
REDEVELOPMENT AREA

WHEREAS, on August 28, 2013, the Township Committee of the Township of Florence, in the County of Burlington, New Jersey (the “**Township**”), approved a financial agreement (the “**Financial Agreement**”) with Turnpike Crossings Urban Renewal, L.L.C., an Urban Renewal Entity (the “**Entity**”), a duly organized limited dividend entity created under the Long Term Tax Exemption Law related to a development on 160.01, Lots 2.01, 2.03 and 2.04 (formerly, Block 160.01, Lots 2.01, 8, 9, 10.01, 20, 21 and 22) within the Township (the “**Property**”) of a warehouse facility (the “**Improvements**”) a first phase consisting of approximately 239,842 square feet of warehouse and distribution center with ancillary facilities including (i) office, (ii) non-retail pharmacy, (iii) light manufacturing, (iv) research laboratory, and (v) call center, and appurtenant site improvements related to drainage, parking and internal roadways, and a second phase consisting of future expansion in the approximate size of 49,200 square feet and appurtenant site improvements to be constructed in accordance with the Redevelopment Plan for the Property adopted by the Township via Ordinance No. 2012-19; and

WHEREAS, the Entity constructed the Improvements on the Property; and

WHEREAS, upon the issuance of a certificate of occupancy for the Improvements, the terms of the financial agreement became operative; and

WHEREAS, the Entity has complied with the terms of the Financial Agreement, including the obligation to make payments to the Township in lieu of property taxes; and

WHEREAS, the parties have concluded that it is desirable to amend the Financial Agreement to improve the administration of the terms of the Financial Agreement; and

WHEREAS, the Township of the Entity have negotiated proposed amendments to the Financial Agreement (the “**First Amendment**”), a copy of which is attached hereto as Exhibit A; and

WHEREAS, the Township desires to approve the First Amendment and provide for the execution of the same; and

WHEREAS, the Long Term Tax Exemption Law, codified at N.J.S.A. 40A:20-1 et seq., requires that amendments to the financial agreement, including the First Amendment, entered into pursuant to its terms be approved by a municipal ordinance; and

WHEREAS, the Township Committee desires to approve the Financial Agreement and authorize the Mayor to execute the same;

NOW THEREFORE BE IT ORDAINED BY THE TOWNSHIP
COMMITTEE OF THE TOWNSHIP OF FLORENCE as follows:

Section 1. Recitals. The recitals are fully incorporated herein.

Section 2. Approval of the First Amendment. The First Amendment substantially in the form attached hereto as Exhibit A, together with any non-substantive changes as may be required, are hereby approved.

Section 3. Execution of the First Amendment. The Mayor of the Township of Florence, in the County of Burlington (the "Mayor") is hereby authorized and directed, upon satisfaction of all the legal conditions precedent to the execution and delivery by the Township of the First Amendment, to execute the First Amendment in substantially the form of the draft attached hereto and with such non-substantive changes, insertions and omissions thereto as the Mayor, after consultation with counsel to the Township, deems in the Mayor's sole discretion to be necessary or desirable for the execution thereof, which execution thereof shall conclusively evidence the Mayor's consent to any such changes thereto.

Section 4. Attestation and Sealing of the First Amendment. The Clerk of the Township is hereby authorized and directed, upon the execution of the First Amendment in accordance with the terms of Section 3 hereof, to attest to the signature of the Mayor upon such document and is hereby further authorized and directed thereupon affix the corporate seal of the Township upon such document.

Section 5. Implementation of the First Amendment. Upon the execution and attestation and placing of the seal on the First Amendment as contemplated by Sections 3 and 4 hereof, the Mayor and Township Administrator, together with the necessary staff and professionals of the Township, are hereby authorized and directed to (i) deliver the fully executed, attested and sealed document to the other parties thereto and (ii) perform such other actions as the Township Administrator deems necessary or desirable in relation to the execution and delivery of the First Amendment.

Section 6. 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.

Section 7. Availability Of The Ordinance. A copy of this Ordinance shall be available for public inspection at the offices of the Township.

Section 8. Effective Date. This ordinance shall take effect in accordance law.

THEODORE J. LOVENDUSKI
COUNCIL PRESIDENT

JOY M. WEILER, RMC/MMC
TOWNSHIP CLERK

EXHIBIT A

Form of First Amendment

**AMENDMENT TO
LONG TERM TAX ABATEMENT AGREEMENT
(FINANCIAL AGREEMENT)
BETWEEN
TURNPIKE CROSSINGS III URBAN RENEWAL, L.L.C.
AND
THE TOWNSHIP OF FLORENCE**

PREAMBLE

THIS AMENDMENT TO LONG TERM TAX ABATEMENT AGREEMENT (FINANCIAL AGREEMENT) (the “Amendment”) is made this ____ day of _____ 2016 (the “Effective Date”), by and between **Turnpike Crossings III Urban Renewal, L.L.C.**, a New Jersey limited liability company (the “Entity”), and qualified as an urban renewal entity under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. (the “Law”) and **The Township of Florence**, a Municipal Corporation in the County of Burlington and the State of New Jersey (the “Township”).

RECITALS

WITNESSETH:

WHEREAS, the Entity and the Township entered into that certain Long Term Tax Abatement Agreement (Financial Agreement) dated as of _____, 2014 (the “Agreement” or the “Financial Agreement”) pursuant to which, among other things, the Township approved the Entity’s construction of an urban renewal project pursuant to the Law and the Financial Agreement which is exempt from local taxation of the Improvements for a period of twenty (20) years from the Substantial Completion of the Improvements but subject to the payment, in lieu of taxes on the Improvements, of an Annual Service Charge; and

WHEREAS, the Entity and the Township have agreed to amend the Financial Agreement on the terms and conditions set forth hereafter.

NOW, THEREFORE, for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Landlord and Tenant agree as follows:

Incorporation. The recitals set forth above, the Financial Agreement referred to therein and the exhibits attached thereto are hereby incorporated herein by reference as if set forth in full in the body of this Amendment.

Definitions. All capitalized terms not otherwise defined in this Amendment shall have the same meaning as in the Financial Agreement. All capitalized terms which are defined herein and used in the Financial Agreement shall have the new meaning ascribed to such terms in this Amendment.

Term. Section 3.1., Term, of the Financial Agreement is amended and restated in its entirety as follows:

“So long as there is compliance with the Law and this Agreement, this Agreement shall remain in effect for twenty (20) years from January 1st of the calendar year following the date of Substantial Completion of each phase of the Project, subject to the further limitations and agreements contained herein, and shall only be effective and in force during the period of each phase of the Project’s operations while said Project is owned by an Urban Renewal entity formed pursuant to N.J.S.A. 40A:20-5 and Title 15A of the New Jersey Statutes. After the expiration of the twenty (20) year time period (i) the tax exemption for each phase of the Project shall expire and such phase of the Project’s Property and improvements located in the Municipality shall thereafter be assessed and taxed according to the general law applicable to other non-exempt property in the Municipality, and (ii) all restrictions and limitations upon the Entity shall terminate upon the Entity’s rendering and the Municipality’s acceptance of the Entity’s final accounting. In no case shall this Agreement remain in effect longer than thirty-five (35) years from the date of Substantial Completion.”

Annual Service Charge. Section 4.1(b) of the Agreement is amended and restated in its entirety as follows:

(b) The Annual Service Charge shall be calculated from the first day of the month following issuance by the Township of a Certificate of Occupancy or a determination by the Township of Substantial Completion of each Phase of the Project, as set forth in Section 6.2. For the calendar year in which the Certificate of Occupancy is issued, the payments for such year shall be prorated based upon the first year payment set forth on Exhibit D but shall not be counted against the twenty (20) year term of this Agreement. The first year of the twenty (20) year term of this Agreement shall commence on January 1st of the year following the calendar year in which the Certificate of Occupancy was issued.

Pilot Year. For clarity and the avoidance of doubt, the parties agree that Substantial Completion of the first phase of the Project consisting of 239,703 square feet occurred on June 27, 2014, the Annual Service Charge payments for such portion commenced as of July 1, 2014, and the first year of the term of the Agreement commenced on January 1, 2015.

Miscellaneous. Except as specifically amended and modified by this Amendment, all other terms of the Financial Agreement shall remain in full force and effect and, as hereby amended, are ratified and confirmed. Any inconsistencies between the terms of the Financial Agreement and this Amendment, the terms of this Amendment shall govern. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same agreement. This Amendment shall be governed by and construed in accordance with the laws of the State of New Jersey and the applicable laws of the United States of America. If any term, covenant or condition of this Amendment is held to be invalid, illegal or unenforceable in any respect, this Amendment shall be construed without such provision.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Entity and the Township have hereunto set their hands and seals as of the date and year first above written, and acknowledge the one to the other that they possess the requisite authority to enter into this transaction and to sign this Amendment.

WITNESS

ENTITY:

**Turnpike Crossings III Urban
Renewal, L.L.C.**, a New Jersey limited
liability company

Name:

By: _____
Name:
Title:

WITNESS

TOWNSHIP:

The Township of Florence, a Municipal
Corporation in the County of Burlington
and the State of New Jersey

Name:

By: _____
Name:
Title: