

ORDINANCE 3549-21

ORDINANCE OF THE BOROUGH OF RUTHERFORD, COUNTY OF BERGEN, STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT, BY AND BETWEEN THE BOROUGH AND LINQUE - H.C. PARTNERS URBAN RENEWAL, L.L.C., PURSUANT TO THE LONG TERM TAX EXEMPTION LAW, *N.J.S.A. 40A:20-1 ET SEQ.*

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, as amended from time to time (the "**Redevelopment Law**"), authorizes municipalities to determine whether certain parcels of land in a municipality constitute areas in need of redevelopment, and to adopt a redevelopment plan for such areas, pursuant to which redevelopment projects are to be undertaken; and

WHEREAS, the Redevelopment Law confers certain contract, planning and financial powers upon a redevelopment entity, as defined in *N.J.S.A. 40A:12A-3*, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the Borough of Rutherford (the "**Borough**"), in the County of Bergen, State of New Jersey, has elected to exercise these redevelopment entity powers directly, as permitted under *N.J.S.A. 40A:12A-4*; and

WHEREAS, by resolution adopted on August 4, 1998, the Mayor and Borough Council ("**Mayor and Council**") designated the area consisting of an approximately 30-acre area, primarily located within the Hackensack Meadowlands District including Block 219.02, Lots 60.01, 61, 62, 63, 65.01, 65.07, 66.05, and 67.04; Block 223, Lot 8.02; Block 224, Lots 3.02, 3.04, 3.05 and part of 3.01 7 on the Borough's official tax map and commonly known as the "Highland Cross Redevelopment Area" (the "**Original Redevelopment Area**"), as an "area in need of redevelopment," as that term is defined under the Redevelopment Law; and

WHEREAS, the Hackensack Meadowlands Development Commission (the "**HMDC**") determined on August 4, 1998 that the Original Redevelopment Area was an area in need of redevelopment in accordance with the Hackensack Reclamation and Development Act *N.J.S.A. 13:17-1 et seq.*;

WHEREAS, by ordinance adopted on December 1, 1998, the Mayor and Council adopted that certain redevelopment plan for the Original Redevelopment Area, dated October 5, 1998, revised October 26, 1998 (the "**Redevelopment Plan**"); and

WHEREAS, by resolutions dated November 25, 1998, the HMDC approved the Redevelopment Plan and authorized its Executive Director to enter into a contract with the Borough to implement the Redevelopment Plan; and

WHEREAS, Linque - H.C. Partners Urban Renewal, L.L.C. (the "**Entity**") made application to the Borough to be designated as the redeveloper for the Original

Redevelopment Area in accordance with the relevant provisions of the Redevelopment Plan; and

WHEREAS, by resolution dated March 2, 1999, the Borough agreed to contract with and designate the Entity as the redeveloper of the Original Redevelopment Area; and

WHEREAS, the Borough and Linque – H.C. Partners, LLC (“**Linque**”) entered into a Redevelopment Agreement on May 13, 1999 (the “**Original Redevelopment Agreement**”), which set forth the parties’ respective rights and obligations in connection with the development of that portion of the Original Redevelopment Area consisting of Block 219.02, Lots 60.01, 61, 62, 63, 65.01, 65.07, 66.05, and 67.04, Block 223, Lots 8.02, Block 224, Lots 3.02, 3.04, 3.05 and part of 3.01 (the “**Original Project Site**”); and

WHEREAS, pursuant to the terms of the Original Redevelopment Agreement, Linque agreed to redevelop the Original Project Site by constructing thereon a mixed-use project consisting of commercial and light industrial uses and conveying a portion of the Original Project Site to the Borough for the Borough to construct a Department of Public Works (“**DPW**”) garage and a municipal recycling facility (collectively, the “**Original Project**”); and

WHEREAS, the Borough and Linque entered into a series of side letter agreements dated May 13, 1999 and November 24, 1999, which modified the Original Redevelopment Agreement (collectively, the “**Side Letter Agreements**”); and

WHEREAS, the Borough and Linque entered into an amended and restated redevelopment agreement, dated May 9, 2001 (the “**First Amended and Restated Redevelopment Agreement**”), to amend, modify and supplement certain articles of the Original Redevelopment Agreement and to rescind the terms and conditions of the Side Letter Agreements; and

WHEREAS, in 2001, a major subdivision was undertaken within a portion of the Original Redevelopment Area that divided it into several large development parcels, including Block 219.04, Lots 1, 2.01, 2.02, 3 and 61; and Block 219.02, Lots 65.05, 65.06, and 65.07 on the Borough’s official tax map (together with the ‘Original Redevelopment Area,’ the “**Redevelopment Area**”); and

WHEREAS, pursuant to the terms of First Amended and Restated Redevelopment Agreement, the Parties agreed, among other things, to modify and amend the Original Redevelopment Agreement as follows: (1) to rescind the Side Letter Agreements; (2) the Borough agreed to relinquish any right it had to operate a recycling facility on the Original Project Site, cease all recycling activities on any portion of the Original Project Site, vacate a portion of the Original Project Site, and convey a portion of the Original Project Site to Linque for the sum of \$250,000 and other consideration enumerated in the First Amended and Restated Agreement; (4) Linque agreed to: (a) convey a portion of the Redevelopment Area consisting of Block 219.04 Lot 2.01 (which constitutes a portion of former Block 219.04, Lot 2HM) on the Borough’s official tax map to the Borough (the “**Borough**

Property”), (b) develop the Borough Property by constructing thereon a DPW garage, fuel depot, and salt storage barn (collectively, the “**DPW Facility**”), and (c) work with the Borough to obtain an easement from the Bergen County Utility Authority (“**BCUA**”); (5) eliminate any reference to “municipal recycling facility” from the Original Redevelopment Agreement; (6) provide that Linque had no further obligation to cooperate with the Borough in seeking a mutually acceptable offsite location for a municipal recycling facility and the Parties agreed that no recycling facility, nor any recycling activities will ever be conducted on the Original Project Site, including the Borough Property, and that this restriction shall be restated in in any deed tendered by the Entity to the Borough for the Borough Property; (7) the Borough agreed to accept and utilize the Borough Property as a DPW Facility consistent with the site plan, and the provisions of the “**Declaration of Zoning Lot Record**,” attached to the First Amended and Restated Redevelopment Agreement, and to accept title to the Borough Property subject to a deed restriction prohibiting recycling use on the Borough Property; (8) the Borough agreed to accept the Borough Property subject to: (i) a landscaping easement allowing the Entity to landscape the DPW Facility at the Borough’s cost and expense, and (ii) an easement allowing the Entity to continuously locate, erect, maintain and replace a monument sign; (9) Entity agreed to complete the extension of Veterans Boulevard northward to Highland Cross, and dedicate the newly constructed portion of Veterans Boulevard to the Borough as a public road and right-of-way; (10) the Borough agreed to vacate that portion of Veterans Boulevard existing as of the date of the First Amended and Restated Redevelopment Agreement between Borough Street and Highland Cross, and also to vacate that portion of Borough Street lying west of Veterans Boulevard, and deliver, by quitclaim deed, title to the areas so vacated to the Entity (collectively, the “**Amended Project**”); and

WHEREAS, effective February 5, 2015, the New Jersey Meadowlands Commission (“**NJMC**”), formerly the HDMC, is now part of the New Jersey Sports and Exposition Authority (“**NJSEA**”); and

WHEREAS, the Redevelopment Plan has since been amended by NJMC Resolution No. 14-38, dated September 24, 2014, and by NJSEA Resolution No. 2019-31, dated October 17, 2019; and

WHEREAS, Linque completed construction of the DPW Facility and conveyed the Borough Property to the Borough; and

WHEREAS, the vision for the redevelopment of the balance of the Redevelopment Area has since changed and Linque now proposes to redevelop the portion of the Redevelopment Area consisting of Block 219.04, Lot 1 (the “**Project Site**”); and

WHEREAS, Linque proposes to subdivide the Project Site (the “**Subdivision**”) consistent with the “Minor Subdivision Plan for 235 Veterans Boulevard, Lots 1, 2.01 & 3 in Block 219.04”, prepared by Control Point Associates, Inc. and dated March 22, 2018 (the “**Subdivision Plan**”) in order to subdivide approximately 12,178 square feet from the Project Site (the “**Additional Borough Property**” and, together with the ‘Borough

Property,' the "**Expanded Borough Property**"), which it will convey to the Borough to be merged into the Borough Property; and

WHEREAS, Linque is the owner of the Project Site; and

WHEREAS, the Borough and the Entity will enter into a Second and Amended Restated Redevelopment Agreement, pursuant to which, among other things, the Entity will redevelop the Redevelopment Area by constructing thereon a project consisting of: (A) constructing on the Project Site, an approximately 357,521 square foot warehouse and distribution facility including 8 loading docks, 206 exterior van parking spaces, 175 interior van parking spaces, 183 employee car parking spaces appropriate on-site and off-site infrastructure and landscaping (the "**Project**"); (B) re-stripe the parking area on the Expanded Borough Property to create 12 net additional parking spaces and provide space on the Additional Borough Property for 9 large bus parking spaces (8'X36') and 8 small bus parking spaces (8'X24') (the "**DPW Portion**"); and (C) construct related improvements including modifying the existing median on Veterans Boulevard to accommodate the new entrances to the Expanded Borough Property and the Project Site (the "**DPW Improvements**", and together with the Project and the DPW Portion, the "**Redevelopment Project**") consistent with the Redevelopment Plan; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the Entity submitted to the Mayor of the Borough (the "**Mayor**") an application (the "**Application**"), which is on file with the Borough Clerk, seeking tax exemption in connection with the Project pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 *et seq.* (the "**Long Term Tax Exemption Law**"), in exchange for which the Entity proposes to make payments to the Borough in lieu of taxes; and

WHEREAS, the Entity also submitted to the Mayor a form of financial agreement (the "**Financial Agreement**"), a copy of which is on file with the Borough Clerk, establishing the rights, responsibilities and obligations of the Entity; and

WHEREAS, the Mayor submitted the Application and Financial Agreement to the Borough Council with his recommendation for approval, a copy of which recommendation is on file with the Borough Clerk; and

WHEREAS, the Borough Council has determined that the Project represents an undertaking permitted by the Long Term Tax Exemption Law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF RUTHERFORD, STATE OF NEW JERSEY AS FOLLOWS:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Application and Financial Agreement are hereby approved.

Section 3. The Mayor is hereby authorized to execute the Financial Agreement substantially in the form as that on file with the Borough Clerk, subject to subject to such additions, deletions, modifications or amendments deemed necessary by the Mayor in his discretion in consultation with counsel, which additions, deletions, modifications or amendments do not alter the substantive rights and obligations of the parties thereto, and to take all other necessary and appropriate action to effectuate the Financial Agreement.

Section 4. The Clerk of the Borough is hereby authorized and directed, upon execution of the Financial Agreement by the Mayor, to attest to the signature of the Mayor and to affix the corporate seal of the Borough upon such document.

Section 5. If any part(s) of this ordinance shall be deemed invalid, such part(s) shall be severed and the invalidity thereby shall not affect the remaining parts of this ordinance.

Section 6. This ordinance shall take effect in accordance with applicable law.

ATTEST:

BOROUGH OF RUTHERFORD

Margaret M. Scanlon
Margaret M. Scanlon, Borough Clerk

Frank Nunziato
Frank Nunziato, Mayor

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Mayor and Council at a meeting held **March 22, 2021**.

Margaret M. Scanlon
Margaret M. Scanlon, Borough Clerk