

## **ORDINANCE NO. 995**

### **ORDINANCE OF THE BOROUGH OF OCEANPORT TO APPROVE THE TAX EXEMPTION AND AUTHORIZE THE EXECUTION OF A FINANCIAL AGREEMENT BETWEEN THE BOROUGH OF OCEANPORT AND OCEANPORT URBAN RENEWAL PRESERVATION, L.P.**

**WHEREAS**, pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended and supplemented (N.J.S.A. 55:14K-1 et seq.) (the "HMFA Law") Oceanport Urban Renewal Preservation, L.P. (the "Entity" or "Developer") proposes to acquire, rehabilitate and renovate a housing project composed of one hundred (100) affordable housing units for lower to middle income persons and one superintendent's unit (the "Project") within the Borough of Oceanport (the "Borough") on a site described as Block 121, Lot 5, as shown on the Official Tax Map of the Borough of Oceanport in the County of Monmouth and more commonly known as 274-278 East Main Street, Oceanport, New Jersey; and

**WHEREAS**, the Developer has provided an in depth proposal and application to the municipal governing body of the Borough of Oceanport (the "Governing Body") seeking a tax exemption; and

**WHEREAS**, the Developer has presented to the Governing Body a revenue projection for the Project, a copy of which is contained as an exhibit to the proposed financial agreement (the "Financial Agreement") attached hereto, that sets forth the total gross revenue to be received and costs to be expended by the Developer from the operation of the Project as estimated by the Developer; and

**WHEREAS**, the Governing Body has determined that the financial feasibility and viability of the Project is dependent upon financial assistance in the form of the payment to the Borough of an annual service charge in lieu of taxes in accordance with the HMFA Law; and

**WHEREAS**, the Governing Body has also determined that said documents support the benefit of granting a long term tax exemption; and

**WHEREAS**, the Developer has demonstrated to the satisfaction of the Governing Body that the granting of a long term tax exemption will improve the quality of life for the occupants of the Project and the quality of life for the Borough; and

**WHEREAS**, the Developer and the Borough shall incorporate the schedule of Annual Service Charges as set forth on Exhibit A which shall be finalized in the Financial Agreement in accordance with all relevant statutory law; and

**WHEREAS**, the Governing Body has thoroughly reviewed the Developer's submissions and supporting documents and determined that it is in the best interest of the Borough to grant a tax abatement to the Developer resulting in an annual service charge in the amount of not less than 4.5% of the annual certified project revenue for a 20 year term as set forth in the Financial Agreement; and

**WHEREAS**, the Project will be subject to the regulatory supervision of the Housing Mortgage Finance Agency ("HMFA" or the "Agency"); and

**WHEREAS**, the Governing Body has determined that the acquisition, preservation and operation of the Project by the Entity as an affordable housing project, subject to regulatory supervision of the Agency, shall assist the Borough in fulfilling its obligation to provide its fair share of the need for affordable housing as required by New Jersey laws and regulations and as required by the Borough's housing plan; and

**WHEREAS**, the Borough is entering into the Financial Agreement in reliance upon the commencement and completion of the Project; and

**WHEREAS**, the attached Financial Agreement represents an arm's length transaction between the parties and all promises and agreements, express or implied, payment of fees or other benefits, terms or conditions related thereto are incorporated therein as it concerns the project and the parties hereto as well as their agents and servants; and

**WHEREAS**, the Entity hereby certifies its compliance with the applicable municipal ordinances of the Borough, as well as the strictures of the HMFA Law.

**NOW THEREFORE, BE IT ORDAINED** by the Municipal governing body of the Borough of Oceanport that:

#### **SECTION 1: PROVISIONS**

1. The Governing Body hereby finds and determines that the proposed Project will meet or meets an existing housing need; and
2. The Governing Body does hereby make the determination and findings herein contained with the intent and purpose that Developer's mortgage lender shall rely thereon in making a mortgage loan to the Developer, to acquire and rehabilitate, own and operate the Project; and
3. The Governing Body does hereby adopt this Ordinance with the further intent and purpose that from the date of closing of title, the proposed Project, including both the land and improvements thereon, will be exempt from real property taxation for a term not to exceed 20 years in accordance with the HMFA Law, provided that payment of annual service charges for municipal services supplied to the Project are made to the Borough for the time in such amounts and in the manner set forth in Financial Agreement and there is not material breach of all other terms in the Financial Agreement; and
4. The Governing Body hereby authorizes and directs the Mayor and the Borough Clerk to execute the attached Financial Agreement, subject to modifications and revisions approved by the Mayor and Borough legal counsel; and
5. The Governing Body hereby directs the Borough Clerk to transmit a certified copy of this Ordinance and the Financial Agreement to the Director of the Division of Local Government Services.

#### **SECTION 2: INCONSISTENCIES**

All other ordinances and parts of ordinances in conflict or inconsistent with this ordinance are hereby repealed but only to the extent of such conflict or inconsistency.

#### **SECTION 3: HEADINGS**

All headings within this ordinance are for convenience only and are not deemed to be part of this ordinance.

#### **SECTION 4: EFFECTIVE DATE**

This ordinance shall take effect after final passage and upon expiration of twenty (20) days following publication unless otherwise provided by resolution of this Borough Council.

**APPROVED ON FIRST READING**

DATED: January 17, 2019

JEANNE SMITH

Clerk of the Borough of Oceanport

**ADOPTED ON SECOND READING**

DATED: February 21, 2019

JEANNE SMITH

Clerk of the Borough of Oceanport

**APPROVAL BY THE MAYOR ON  
THIS**

\_\_\_\_\_ DAY OF \_\_\_\_\_.

**JOHN F. COFFEY, II**  
**Mayor**

STATEMENT OF THE MUNICIPAL CLERK

Ordinance #995 was adopted and published in accordance with law but was never signed as the developer changed their financing and the ordinance and financial agreement herein were not usable and a new ordinance and agreement were developed. See Ordinance #999.

JEANNE SMITH  
BOROUGH CLERK