

RESOLUTION 86-2018

RESOLUTION AUTHORIZING TAX ABATEMENT AND AGREEMENT

WHEREAS, Woodbury Heights Housing Associates, LLC is the managing member (hereinafter referred to as the "Sponsor") proposes to construct an affordable rental housing development for families consisting of 70 units in townhouses and flats (hereinafter referred to as the "Project") pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended (N.J.S.A. 55:14K-1 et seq.), the rules promulgated thereunder at N.J.A.C. 5:80-1 et seq., and all applicable guidelines (the foregoing hereinafter referred to as the "HMFA Requirements") within the Borough of Woodbury Heights (hereinafter referred to as the "Municipality") on a site described as Block 84, Lots 6 and 8 as shown on the Official Assessment Map of the Borough of Woodbury Heights, Gloucester County and commonly known as 1257 Glassboro Road and 1277 Glassboro Road; and

WHEREAS, the Project will be subject to the HMFA Requirements and the mortgage and other loan documents executed between the Sponsor and the New Jersey Housing and Mortgage Finance Agency (hereinafter referred to as the "Agency"); and

WHEREAS, the Project will be subject to requirements of the New Jersey Department of Community Affairs (hereinafter referred to as the "Department of Community Affairs"), Neighborhood Preservation Balanced Housing Program in accordance with N.J.S.A. 52:27D-320 and applicable rules promulgated thereunder at N.J.A.C. 5:43-1.1 et seq., and the mortgage and other loan documents executed between the Sponsor and the Commissioner of the Department of Community Affairs; and

WHEREAS, pursuant to the HMFA Requirements, the Borough Council of the Borough of Woodbury Heights hereby determines that there is a need for this housing project in the Borough; and

WHEREAS, the Sponsor has presented to the Borough Council a revenue projection for the Project which sets forth the anticipated revenue to be received by the Sponsor from the operation of the Project as estimated by the Sponsor and the Agency, a copy of which is attached hereto and made a part hereof as Exhibit A.

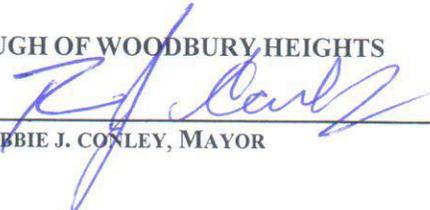
NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Woodbury Heights (the "Council") that:

- (1) The Council finds and determines that the proposed Project will meet or meets an existing housing need;
- (2) The Council does hereby adopt the within Resolution and makes the determination and findings herein contained by virtue of, pursuant to, and in the conformity with the

provisions of the HMFA Requirements with the intent and purpose that the Agency shall rely thereon in making a mortgage loan to the Sponsor, which shall construct, own and operate the Project; and

- (3) The Council does hereby adopt the within Resolution with the further intent and purpose that from the date of execution of the Agency mortgage, the proposed Project, including both the land and improvements thereon, will be exempt from real property taxation as provided in the HMFA Requirements, provided that payments in lieu of taxes for municipal services supplied to the Project are made to the Borough in such amounts and manner set forth in the Agreement for Payments in Lieu of Taxes attached hereto as Exhibit "B"; and
- (4) The Council hereby authorizes and directs the Mayor of the Borough of Woodbury Heights to execute, on behalf of the Borough, the Agreement for Payments in Lieu of Taxes in substantially the form annexed hereto as Exhibit "B"; and
- (5) The Council understands and agrees that the revenue projections set forth in Exhibit "A" are estimates and that the actual payments in lieu of taxes to be paid by the Sponsor to the Borough shall be determined pursuant to the Agreement for Payments in Lieu of Taxes executed between the Sponsor and the Borough.

BOROUGH OF WOODBURY HEIGHTS

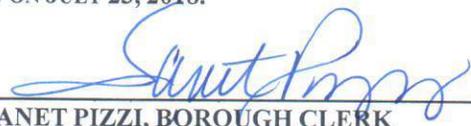
BY: 

ROBBIE J. COXLEY, MAYOR

ATTEST:


JANET PIZZI, BOROUGH CLERK

THE FOREGOING RESOLUTION WAS DULY ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WOODBURY HEIGHTS AT THE SPECIAL MEETING HELD ON JULY 23, 2018.


JANET PIZZI, BOROUGH CLERK

Woodbury Heights

Agreement for Payment in Lieu of Taxes

Exhibit A

Projected Annual Gross Rents	686,424
Proforma Vacancy at 1%	(6,864)
Projected Annual Utility Costs	(66,500)
Project Revenues	613,060
Payment in Lieu Percentage	5.00%
Annual Projected Payment in Lieu Amount	30,653

Woodbury Heights

	5%
Year 1	30,653
Year 2	31,573
Year 3	32,520
Year 4	33,495
Year 5	34,500
Year 6	35,535
Year 7	36,601
Year 8	37,699
Year 9	38,830
Year 10	39,995
Year 11	41,195
Year 12	42,431
Year 13	43,704
Year 14	45,015
Year 15	46,365
Year 16	47,756
Year 17	49,189
Year 18	50,665
Year 19	52,185
Year 20	53,750
Year 21	55,363
Year 22	57,024
Year 23	58,734
Year 24	60,496
Year 25	62,311
Year 26	64,181
Year 27	66,106
Year 28	68,089
Year 29	70,132
Year 30	72,236

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

THIS AGREEMENT, made this _____ day of July, 2018, between Woodbury Heights Housing Associates, LLC, having an office at 20000 Horizon Way, Suite 180, Mt. Laurel, NJ 08054 (hereinafter the "Sponsor") and the Borough of Woodbury Heights, a municipal corporation in the County of Gloucester and State of New Jersey (hereinafter the "Municipality").

WITNESSETH

In consideration of the mutual covenants herein contained and for other good and valuable consideration, it is mutually covenanted and agreed as follows:

1. This Agreement is made pursuant to the authority contained in Section 37 of the New Jersey Housing and Mortgage Finance Agency Law of 1983 (N.J.S.A. 55:14K-1 *et seq.*) (hereinafter "HMFA Law") and a Resolution of the Council of the Municipality dated July 23, 2018, (the "Resolution") and with the approval of the New Jersey Housing and Mortgage Finance Agency (hereinafter the "Agency"), as required by N.J.S.A. 55:14K-37.

2. The Project is or will be situated on that parcel of land designated as Block 84, Lots 6 and 8 as shown on the Official Assessment Map of the Borough of Woodbury Heights, and more commonly referred to as 1257 Glassboro Road and 1277 Glassboro Road, Woodbury Heights, New Jersey.

3. As of the date the Sponsor executes a first mortgage upon the Project in favor of the Agency (hereinafter referred to as the "Agency Mortgage"), the land and improvements comprising the Project shall be exempt from real property taxes, provided that the Sponsor shall make payments in lieu of taxes to the Municipality as provided hereinafter. The exemption of the Project from real property taxation and the sponsor's obligation to make payments in lieu of taxes shall not extend beyond the date on which the Agency Mortgage is paid in full, which, according to the HMFA Law, may not exceed fifty (50) years.

4. (a) For projects receiving construction and permanent financing from the Agency, the Sponsor shall make payment to the Municipality of an annual service charge in lieu of taxes in such amount as follows:

- (1) From the date of the execution of the Agency Mortgage until the date of Substantial Completion of the Project, the Sponsor shall make payment to the Municipality in the amount equal to the current real estate taxes (pursuant to the HMFA Law, the annual amount may not exceed the amount of taxes due on the property for the year preceding the recording of the Agency Mortgage). As used herein, "Substantial Completion" means the date upon which the Municipality issues the Certificate of Occupancy for all of the units in the Project.

(2) From the date of Substantial Completion of the Project and for the remaining term of the NJHMFA Mortgage, the Sponsor shall make payment to the Municipality in an amount equal to five percent (5%) of Project Revenues.

(b) For Projects receiving permanent financing only from the Agency, the Sponsor shall make payment to the Municipality in an amount equal to five percent (5%) of Project Revenues from the date of the Agency Mortgage and for the remaining term of the Agency Mortgage.

(c) As used herein, "Project Revenues" means the total annual gross rental or carrying charge or other income of the Sponsor from the Project less the costs of utilities furnished by the Project, which shall include the costs of gas, electricity, heating fuel, water supplied, and sewage charges, and less vacancies if any. Project Revenues shall not include any rental subsidy contributions received from any federal or state program.

(d) The amount of payment in lieu of taxes to be paid pursuant to paragraphs (a) or (b) and (c) above is calculated in Exhibit "A" attached hereto. It is expressly understood and agreed that the revenue projections provided to the Municipality as set forth in Exhibit "A" and as part of the Sponsor's application for an agreement for payments in lieu of taxes are estimates only. The actual payments in lieu of taxes to be paid by the Sponsor shall be determined pursuant to Section 5 below.

5. (a) Payments by the Sponsor shall be made on a quarterly basis in accordance with bills issued by the Tax Collector of the Municipality in the same manner and on the same dates as real estate taxes are paid to the Municipality and shall be based upon Project Revenues of the previous quarter. No later than three (3) months following the end of the first fiscal year of operation after (i) the date of Substantial Completion (for projects receiving construction and permanent financing) or (ii) the date of the Agency Mortgage (for projects receiving permanent financing only) and each year thereafter that this Agreement remains in effect, the Sponsor shall submit to the Municipality a certified, audited financial statement of the operation of the Project (the "Audit"), setting forth the Project Revenues and the total payments in lieu of taxes due to the Municipality calculated at five percent (5%) of Project Revenues as set forth in the Audit (the "Audit Amount"). The Sponsor simultaneously shall pay the difference, if any, between (i) the Audit Amount and (ii) payments made by the Sponsor to the Municipality for the preceding fiscal year. The Municipality may accept any such payment without prejudice to its right to challenge the amount due. In the event that the payments made by the Sponsor for any fiscal year shall exceed the Audit Amount for such fiscal year, the Municipality shall credit the amount of such excess to the account of the Sponsor.

(b) All payments pursuant to this Agreement shall be in lieu of taxes and the Municipality shall have all the rights and remedies of tax enforcement granted to Municipalities by law just as if said payments constituted regular tax obligations on real property within the Municipality. If, however, the Municipality disputes the total amount of the annual payment in lieu of taxes due it, based upon the Audit, it may apply to the Superior Court, Chancery Division for an accounting of the service charge due the Municipality, in accordance with this Agreement and HMFA Law. Any such action must be commenced within one year of the receipt of the Audit by the Municipality.

(c) In the event of any delinquency in the aforesaid payments, the Municipality shall give notice to the Sponsor and NJHMFA in the manner set forth in 9(a) below, prior to any legal action being taken.

6. The tax exemption provided herein shall apply only so long as the Sponsor or its successors and assigns and the Project remain subject to the provisions of the HMFA Law and Regulations made thereunder and the supervision of the Agency, but in no event longer than the term of the Agency Mortgage. In the event of (a) a sale, transfer or conveyance of the Project by the Sponsor or (b) a change in the organizational structure of the Sponsor, this Agreement shall be assigned to the Sponsor's successor and shall continue in full force and effect so long as the successor entity qualifies under the HMFA Law or any other state law applicable at the time of the assignment of this Agreement and assumes the Agency Mortgage.

7. Upon any termination of such tax exemption, whether by affirmative action of the Sponsor, its successors and assigns, or by virtue of the provisions of the HMFA Law, or any other applicable state law, the Project shall be taxed as omitted property in accordance with the law.

8. The Sponsor, its successors and assigns shall, upon request, permit inspection of property, equipment, buildings and other facilities of the Project and also documents and papers by representatives duly authorized by the Municipality. Any such inspection, examination or audit shall be made during reasonable hours of the business day, in the presence of an officer or agent of the Sponsor or its successors and assigns.

9. Any notice or communication sent by either party to the other hereunder shall be sent by certified mail, return receipt requested, addressed as follows:

(a) When sent by the Municipality to the Sponsor, it shall be addressed to 20000 Horizon Way, Suite 180, Mt. Laurel, NJ 08054 or to such other address as the Sponsor may hereafter designate in writing and a copy of said notice or communication by the Municipality to the Sponsor shall be sent by the Municipality to the New Jersey Housing and Mortgage Finance Agency, 637 South Clinton Avenue, P.O. Box 18550, Trenton, New Jersey 08650-2085.

(b) When sent by the Sponsor to the Municipality, it shall be addressed to the Borough Clerk, Janet Pizzi, at 500 Elm Avenue, Woodbury Heights, New Jersey 08097 or to such other address as the Municipality may designate in writing; and a copy of said notice or communication by the Sponsor to the Municipality shall be sent by the Sponsor to the New Jersey Housing and Mortgage Finance Agency, 637 South Clinton Avenue, P.O. Box 18550, Trenton, New Jersey 08650-2085.

10. In the event of a breach of this Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court, Chancery Division, to settle and resolve said dispute in such fashion as will tend to accomplish the purposes of the HMFA Law.

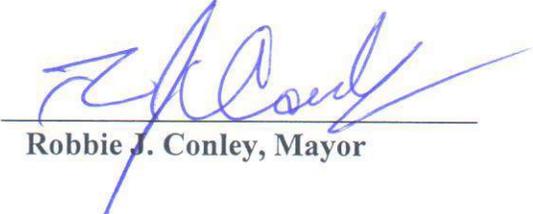
11. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. It shall not be necessary in making proof of this Agreement to produce or account for more than a sufficient number of counterparts to evidence the execution of the Agreement by each party hereto.

ATTEST

Borough of Woodbury Heights



Janet Pizzi, Borough Clerk

By: 

Robbie J. Conley, Mayor

ATTEST

Woodbury Heights Housing Associates, LLC

By: _____