

**CITY OF ABSECON**

**ORDINANCE 01-2019**

**AN ORDINANCE OF THE CITY OF ABSECON AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT FOR CERTAIN PROPERTIES IDENTIFIED ON THE CITY'S TAX MAPS AS BLOCK 203, LOTS 1.01 AND 1.02 LOCATED WITHIN THE BLOCK 203 REDEVELOPMENT AREA**

**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 or rehabilitation, 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 City of Absecon (the "**City**"), in the County of Atlantic, 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**, in accordance with the Redevelopment Law, by Resolution No. 101-2017, duly adopted on May 4, 2017, the City designated certain properties identified as Block 203, Lots 1.01 and 1.02 on the official tax maps of the City as an "area in need of redevelopment" (the "**Redevelopment Area**"); and

**WHEREAS**, pursuant to *N.J.S.A. 40A:12A-7*, by Ordinance No. 10-2017 duly adopted on October 5, 2017, the City Council adopted a redevelopment plan entitled "Redevelopment Plan for the Block 203 Redevelopment Area", dated August 16, 2017 (as may be amended and supplemented from time to time, the "**Redevelopment Plan**"), in order to effectuate the redevelopment of the Redevelopment Area; and

**WHEREAS**, Absecon Urban Renewal, LLC (the "**Entity**"), an urban renewal entity qualified to do business under the provisions of the *Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq.* (the "**Exemption Law**"), submitted, and the City evaluated, a concept to redevelop the Redevelopment Area with commercial and retail facilities (the "**Project**"); and

**WHEREAS**, on January 17, 2019, the City authorized execution of a Redevelopment Agreement with the Entity (the "**Redevelopment Agreement**") in order to implement the Project; and

**WHEREAS**, despite the Entity's current and future substantial investment of equity and traditional borrowed funds for acquisition, development and construction of the Project, such amounts of equity and traditional borrowed funds are insufficient to pay for all of the costs associated with the acquisition, development and construction of the Project including the acquisition of land and construction of a new firehouse to replace the firehouse located in the Redevelopment Area; and

**WHEREAS**, the Entity has submitted an application to the City for the approval of a long term tax exemption for the Project (the “**Application**”) pursuant to the Exemption Law and the *Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 et seq.* (the “**Bond Financing Law**”), which Application is on file with the City; and

**WHEREAS**, after review of the Application, the Mayor recommended that the Application be approved on such terms as set forth in a proposed form of financial agreement (the “**Financial Agreement**”) substantially in the form attached hereto as **Exhibit A**, and by this reference incorporated herein, as may be modified in consultation with counsel as set forth herein; and

**WHEREAS**, the City is agreeable to granting the long term tax exemption to the Entity for the Project and, in connection therewith, the City and the Entity will utilize the Bond Financing Law, the Exemption Law, and such other statutes as may be sources of relevant authority, if any, to facilitate financing of the Project; and

**WHEREAS**, the provisions of the Exemption Law, the Bond Financing Law, and such other statutes as may be sources of relevant authority, if any, authorize the City to accept, in lieu of real property taxes, an annual service charge paid by the Entity to City as set forth in such laws; and

**WHEREAS**, pursuant to the Bond Financing Law, specifically *N.J.S.A. 40A:12A-68*, the Annual Service Charge (as such term is defined in the Financial Agreement) shall, upon the recordation of this Financial Agreement and the Ordinance, constitute a municipal lien on the Project within the meaning of such law; and

**WHEREAS**, pursuant to and in accordance with the provisions of the Bond Financing Law, specifically *N.J.S.A. 40A:12A-65* and *67(a)*, the City may issue bonds, may apply to an authority (as such term is defined in the Bond Financing Law) to issue bonds, or may cause the issuance of such bonds to finance redevelopment projects or any other cost or expense of the City; and

**WHEREAS**, in order to assist in financing certain costs of the City relating to the relocation of the City’s fire department (the “**New Firehouse Project**”), the City intends to issue its notes and/or bonds in a principal amount not to exceed Three Million Dollars (\$3,000,000.00) (the “**Bonds**”) in accordance with the terms of a bond ordinance (the “**Bond Ordinance**”); and

**WHEREAS**, the City hereby finds that the relevant benefits of the Project to the redevelopment of the Redevelopment Area outweigh the costs, if any, associated with the tax exemption, and in fact increase City revenues over current levels by granting the long term tax exemption for the Project, which relevant benefits are further described in the Application and the Financial Agreement; and

**WHEREAS**, the City hereby determines that the assistance provided to the Project pursuant to the Financial Agreement will be a significant inducement for the Entity to proceed with the Project and that based on information set forth in the Application, the Project would not be feasible without such assistance,

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the City Council of the City of Absecon, in the County of Atlantic, State of New Jersey as follows:

**I. GENERAL**

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

**II. APPROVAL OF APPLICATION**

The Application submitted by the Entity is hereby approved.

**III. EXECUTION OF FINANCIAL AGREEMENT AUTHORIZED**

(a) The Mayor is hereby authorized and directed to execute the Financial Agreement, substantially in the form as it has been presented to the City Council, and attached hereto as **Exhibit A**, subject to additions, deletions, modifications, or revisions deemed necessary and appropriate in consultation with counsel.

(b) The Clerk of the City is hereby authorized and directed, upon the execution of the Financial Agreement in accordance with the terms of Section III(a) hereof, to attest to the signature of the Mayor upon such document and is hereby further authorized and directed to affix the corporate seal of the City upon such document.

(c) The City Clerk shall file certified copies of this Ordinance and the Financial Agreement with the Tax Assessor of the City. In accordance with P.L. 2015, c. 247, within ten (10) calendar days following the later of the effective date of this Ordinance or the execution of the Financial Agreement by the Entity, the City Clerk also shall transmit a certified copy of this Ordinance and the Financial Agreement to the chief financial officer of Atlantic County and to the Atlantic County Counsel for informational purposes.

**IV. 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.

**IV. ACTION REGARDING FINANCIAL AGREEMENT**

The Mayor is hereby authorized and directed to determine all matters and terms in connection with the Financial Agreement, all in consultation with the redevelopment counsel to the City, and the manual or facsimile signature of the Mayor upon any documents shall be conclusive as to all such determinations. The Mayor, the Business Administrator, the Chief Financial Officer, the City Clerk and any other City official, officer or professional, including but not limited to, redevelopment counsel, bond counsel, the financial advisor and the auditor to the City, are each hereby authorized and directed to execute and deliver such documents as are necessary to facilitate the transactions contemplated hereby, and to take such actions or refrain from such actions as are necessary to facilitate the transactions contemplated hereby, in consultation with, as applicable, redevelopment counsel, bond counsel, the financial advisor and the auditor to

the City, and any and all actions taken heretofore with respect to the transactions contemplated hereby are hereby ratified and confirmed.

**V. AVAILABILITY OF THE ORDINANCE**

A copy of this Ordinance shall be available for public inspection at the offices of the City.

**VI. EFFECTIVE DATE**

This Ordinance shall take effect according to law.

**DATED: February 21<sup>st</sup>, 2019**

**SIGNED:** \_\_\_\_\_  
**Kimberly Horton, Mayor**

**ATTEST:** \_\_\_\_\_  
**Carie A. Crone, RMC, Municipal Clerk**

Passed on first reading at a regular meeting of the Municipal Council held on February 7<sup>th</sup>, 2019. Laid over and advertised for public hearing and final adoption on February 21<sup>st</sup>, 2019. Notice is hereby given that the foregoing Ordinance was approved for final adoption by the Municipal Council of the City of Absecon at a regular meeting held on February 21<sup>st</sup>, 2019.