

Egg Harbor Township

Ordinance No. 20

2019

An Ordinance approving the Application of and the Execution of Financial Agreement with Black Horse EHT Urban Renewal LLC in connection with the renovation, construction and equipping of an assisted living residence for low income seniors by Black Horse EHT Urban Renewal LLC

WHEREAS, in compliance with the New Jersey Supreme Court's March 10, 2015 decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) ("**Mount Laurel IV**"), on or about July 2, 2015, the Township of Egg Harbor, in the County of Atlantic, New Jersey (the "**Township**") filed a Declaratory Judgment Action with the New Jersey Superior Court in Atlantic County (hereinafter the "**Court**"), entitled In the Matter of the Application of the Township of Egg Harbor, County of Atlantic, Docket No. ATL-L-1506-15 (hereinafter "**DJ Action**"), seeking a Judgment of Compliance and Repose approving its Housing Element and Fair Share Plan; and

WHEREAS, the Township entered into a settlement agreement with Fair Share Housing Center ("**FSHC**") on August 16, 2017 to settle the Township's DJ Action globally, which was approved during a properly noticed Fairness Hearing held on October 17, 2017, and memorialized by an Order entered by the Court on November 27, 2017; and

WHEREAS, the Township's Planning Board subsequently adopted Housing Element and Fair Share Plan (hereinafter "**Affordable Housing Plan**"), which was also endorsed by the Township Committee, to implement the settlement with FSHC, and said Affordable Housing Plan was subsequently approved by the Court during a properly noticed Compliance Hearing held on August 28, 2018; and

WHEREAS, the Court entered a Judgment of Compliance and Repose Order on August 31, 2018 (hereinafter "**JOR Order**"), which approved the Township's Affordable Housing Plan, with conditions; and

WHEREAS, the Township subsequently satisfied all of the conditions of its JOR Order, which was memorialized by a second Order entered by the Court on December 31, 2018, which finalized the JOR Order; and

WHEREAS, the settlement agreement with FSHC, the Township's Affordable Housing Plan, and the JOR Order, all contemplate a one hundred percent (100%) affordable age-restricted motel conversion to assisted living residence project to take place on the site of the current Howard Johnson's motel located in the Township; and

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "**Local Redevelopment and Housing Law**") confers certain contract, planning and financial powers upon a redevelopment entity, as defined at Section 3 of the Act, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the Township has elected to exercise these redevelopment entity powers directly, as permitted by Section 4 of the Local Redevelopment and Housing Law; and

WHEREAS, the governing body of a municipality which has adopted a redevelopment plan pursuant to the Local Redevelopment and Housing Law may enter into a financial agreement with an urban renewal entity pursuant to the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.* (the “**Long Term Tax Exemption Law**”), for, among other reasons, the undertaking of a project set forth in a redevelopment plan; and

WHEREAS, the Township Committee adopted a resolution on February 21, 2018, which authorized an investigation to determine whether or not Block 2118, Lot 4 on the official tax map of the Township of Egg Harbor, County of Atlantic, State of New Jersey (the “**Land**”) is qualifies as an area in need of redevelopment pursuant to the New Jersey Local Redevelopment and Housing Law (*N.J.S.A. 40A:12A-1, et seq.*); and

WHEREAS, the Township Planner, Vincent J. Polistina, PE, PP, prepared a “Determination of Need Report” in March of 2018 for the Land, in which he concluded that the Land meets the criteria of the Local Redevelopment and Housing Law as an area in need of redevelopment; and

WHEREAS, by Resolution No. 184, adopted on April 4, 2018, the Township declared Lot 4 in Block 2118, on the official tax map of the Township, along with certain adjacent rights-of-way, to be a Non-Condensation Area in Need of Redevelopment pursuant to the Act, and designating this area as the Farmington Redevelopment Area (the “**Redevelopment Area**”); and

WHEREAS, by Ordinance No. 28, adopted on July 18, 2018, the Township adopted a redevelopment plan for the Redevelopment Area (the “**Redevelopment Plan**”); and

WHEREAS, pursuant to the Local Redevelopment and Housing law and the Tax Exemption Law, the Township has designated Black Horse EHT Urban Renewal LLC (the “**Entity**”) as the designated redeveloper to redevelop the Land, consisting of the renovation, construction and equipping of an approximately 160-unit (all of which will be creditworthy senior affordable units) assisted living residence for low income seniors, including, among other things, the renovation of an existing private room hotel and the new construction of additional units and kitchen, dining, administrative and resident activity areas, including an approximately 5,000 square foot adult medical day care facility (the “**Redevelopment Project**”); and

WHEREAS, the Entity will be a single purpose urban renewal entity pursuant to the Long Term Tax Exemption Law created for the development, operation and maintenance of the Redevelopment Project; and

WHEREAS, in order to improve the feasibility of the Redevelopment Project, the Entity has requested that the Township allow a long term tax exemption and financial agreement with respect to the Redevelopment Project pursuant to the Long Term Tax Exemption Law; and

WHEREAS, the Redevelopment Project will require, among other items, the construction of certain infrastructure improvements, relocations and modifications in and around the Redevelopment Area, including without limitation, certain intersection and other traffic improvements (collectively, the “**Infrastructure Improvements**”); and

WHEREAS, despite the Redeveloper’s investment of equity and borrowed funds, such amounts are insufficient to feasibly pay for all of the costs associated with the development and construction of the Redevelopment Project; and

WHEREAS, in order to defray certain eligible costs of the Redevelopment Project, specifically the Infrastructure Improvements, thereby making the Redevelopment Project viable, the Township agreed to issue general obligation bonds in one or more series in an aggregate principal amount not to exceed \$25,000 (the “**Bonds**”) pursuant to the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 *et seq.*, (the “**RAB Law**”) and/or the Local Bond Law, N.J.S.A. 40A:2-1 *et seq.* (the “**Local Bond Law**”), as applicable; and

WHEREAS, the Entity has represented to the Township that the Redevelopment Project would not be feasible in its intended scope but for the provision of financial assistance by the Township; and

WHEREAS, the Township determined that the assistance provided to the Redevelopment Project pursuant to this Agreement will be a significant inducement for the Entity to proceed with the Redevelopment Project and that based on information set forth in the Application, the Redevelopment Project would not be feasible without such assistance; and

WHEREAS, pursuant to the Long Term Tax Exemption Law, the Redeveloper provided the Township with the information required by Section 8 of the Long Term Tax Exemption Law in the form of an application for a long term tax exemption (the “**Application**”); and

WHEREAS, the Township Committee hereby finds that the relevant benefits of Redevelopment Project outweigh the loss, if any, of property tax revenue in granting the long term tax exemption requested in the Application; and

WHEREAS, the Township Committee further finds that the assistance provided to the Redevelopment Project pursuant to the Financial Agreement will be a significant inducement for the Entity to proceed with the Redevelopment Project; and

WHEREAS, the Township and the Entity have determined to execute a financial agreement (the “**Financial Agreement**”), a form of which is included in the Application; and

WHEREAS, the Township and the Entity have further determined that the effectiveness of the Financial Agreement shall be contingent upon the execution of an affordable housing agreement between the Township and the Entity (“**Affordable Housing Agreement**”) outlining the affordability restrictions on the Redevelopment Project which are satisfactory to FSHC so as to permit the Township to satisfy its obligations under its Affordable Housing Plan.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Egg Harbor, County of Atlantic and State of New Jersey as follows:

Section 1. The Application and form of Financial Agreement are hereby approved. The effectiveness of the Financial Agreement shall be contingent upon the execution of an Affordable Housing Agreement outlining the affordability restrictions on the Redevelopment Project, which are satisfactory to FSHC so as to permit the Township to satisfy its obligations under its Affordable Housing Plan.

Section 2. The Mayor and Township Clerk are hereby authorized and directed to execute the Financial Agreement with the Redeveloper in substantially the same form as that contained within the Application, subject to minor modification or revision, as deemed necessary and appropriate after consultation with counsel.

Section 3. Executed copies of the Financial Agreement shall be certified by and be filed with the Office of the Township Clerk. Further, the Township Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Township, and the Chief Financial Officer of Atlantic County within ten (10) days of the execution of the Financial Agreement.

Section 4. Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

Section 5. This Ordinance shall take effect upon final passage, adoption, and publication, in the manner prescribed by law.

Notice is hereby given that the foregoing Ordinance was introduced at a meeting of the Township Committee of Egg Harbor Township, in the County of Atlantic, State of New Jersey, held June 19, 2019 and will be further considered for final passage after a public hearing thereon at a regular meeting of said Township Committee to be held in the Township Hall, in said Township on July 17, 2019.

Dated: June 19, 2019

Eileen M. Tedesco, RMC
Township Clerk