

ORDINANCE NO. 13-2016

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A
FINANCIAL AGREEMENT BETWEEN THE TOWNSHIP
OF ABERDEEN AND WHITE OAK REALTY I URBAN
RENEWAL, L.P. FOR AN URBAN RENEWAL PROJECT**

WHEREAS, the Township Council of the Township of Aberdeen (“Township”) and the Township Planning Board previously engaged in multiple investigations and studies pursuant to the requirements of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. (the “Redevelopment Law”) relating to certain properties within the Township for the purposes of creating new zoning districts, to be designated “Redevelopment Zones”, for the purposes of incentivizing redevelopment of such properties; and

WHEREAS, the Township adopted ordinances dividing the Township into seventeen (17) zoning districts, and in addition thereto, established the designated “Redevelopment Zones” (see Ord. No. 11-1985; Ord. No. 12-2002 §1; Ord. No. 8-2003 §7; Ord. No. 13-2003 §7; Ord. No. 11-2010 §1; Ord. No. 14-2010; Ord. No. 20-2010 and Ord. No 16-2012 §7); and

WHEREAS, one of the properties included lands identified as Block 196.04/Lot 27 and Block 228/Lots 1 & 2 on the Aberdeen Township Tax Maps (herein the “County Road Property”), and the newly created “Redevelopment Zone” entitled “*IH*” *Inclusionary Housing Overlay Zone* within the “LI” Light Industrial Zone further included a concept plan for a development then known as “Renaissance At Aberdeen” that appeared on Page 47 of the Township’s November 25, 2008 “Housing Plan Element and Fair Share Plan” document, which was adopted by the Planning Board and forwarded to the New Jersey Council on Affordable Housing (COAH) for “Substantive Certification” by the Aberdeen Town Council on December 30, 2008. “Renaissance At Aberdeen” was subsequently re-named “The Bluffs at Aberdeen”; and

WHEREAS, C&M County Road, LLC (“C&M”) previously applied to the Planning Board of the Township of Aberdeen (“Planning Board”) for preliminary and final site plan approval (the “Application”) for the construction of 115 townhouse dwelling units on the County Road Property for the project re-named “The Bluffs at Aberdeen” (“Project”), of which 37 units would be restricted for affordable rental housing that, resultantly, would represent a 32% set-aside for affordable rental housing; and

WHEREAS, on February 16, 2011, the Planning Board granted C&M preliminary and final site plan approval for the Project, subject to conditions, and on April 20, 2011 adopted its Resolution memorializing the approval (“Approval”) that provided for construction and delivery of all units, including the affordable housing units; and

WHEREAS, C&M, as the original “Developer”, has previously formed a wholly-owned affiliated New Jersey limited liability company known as “White Oak Realty Group, LLC” having offices located at 73 Conover Road, Colt Neck, New Jersey (“White Oak LLC”); and

WHEREAS, C&M has formed a wholly-owned affiliated urban renewal entity qualified to do business qualified to do business under the provisions of the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., and referred to as “White Oak Realty I Urban Renewal, L.P.”, a New Jersey limited partnership, and in which entity White Oak LLC serves as the single managing General Partner of White Oak Realty I Urban Renewal, L.P. (hereinafter “Entity” or “White Oak”); and

WHEREAS, the Entity will be the “Redeveloper” of the Building A COAH Units and has entered into a certain “Developer’s Agreement [With Redevelopment Component for Certain COAH Units]” agreement with the Township and C&M governing the terms and conditions of said redevelopment and construction of the Building A COAH Units (the “Developer’s Agreement”) located at Block No. 228, Lot 1 on the Township’s tax map (the “Project”); and

WHEREAS, pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., White Oak has submitted a written application (“Application”) attached hereto and made a part hereof as **Exhibit “A”** and form of financial agreement (“Financial Agreement”) to the Township for approval of a long term tax exemption for improvements to be constructed in connection with the project, attached hereto and made a part hereof as **Exhibit “B”**; and

WHEREAS, the Township Administration and Council have determined that the Project would fulfill a public purpose and fulfill the Township's Affordable Housing obligations by providing additional low and moderate income housing within the Township; and

WHEREAS, the Township will receive stable, ascertainable, long term payments in lieu of taxes from White Oak, pursuant to the terms of the Financial Agreement; and

WHEREAS, pursuant to N.J.S.A. 40A:20-8, the Township has reviewed White Oak's Application and the proposed Financial Agreement and finds same to be acceptable and in compliance with the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. and recommends that the Application be approved and the Financial Agreement be entered into with White Oak for the grant of a Long Term Tax Exemption in connection with the Project.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Aberdeen, County of Monmouth and State of New Jersey that the Exemption Application as described and defined hereinabove and attached hereto as **Exhibit "A"**, is hereby authorized, accepted and approved; and

BE IT FURTHER ORDAINED, that the Financial Agreement as described and defined hereinabove be and is hereby authorized to be executed and delivered on behalf of the Township by the Mayor in substantially the form attached hereto as **Exhibit "B"**; and

BE IT FURTHER ORDAINED, that the Mayor is hereby further authorized and directed to: (i) execute and deliver, and the Township Clerk is hereby further authorized and directed to attest to such execution and to affix the corporate seal of the Township to, any document, instrument or certificate deemed necessary, desirable or convenient by the Mayor or the Township Clerk, as applicable, in their respective sole discretion, after consultation with the Township Consultants, to be executed in connection with the execution and delivery of the Financial Agreement and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document; and (ii) perform such other actions as the Mayor may deem necessary, desirable or convenient in relation to the execution and delivery thereof; and

BE IT FURTHER ORDAINED, that White Oak shall submit annually, within 90 days after the close of its fiscal year, its auditor's reports to the Township Council and to the Director of Local Government Services in the Department of Community Affairs pursuant to N.J.S.A. 40A:20-3(h)(4); and

BE IT FURTHER ORDAINED, that White Oak shall, upon request, permit inspection of property, equipment, buildings and other facilities of its facilities, and also permit examination and audit of its books, contracts, records, documents and papers by authorized representatives of the Township; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.