

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
STATE OF NEW JERSEY**

ORDINANCE NO. 2025-20

ORDINANCE AUTHORIZING EXECUTION OF AGREEMENT FOR PAYMENTS IN LIEU OF TAXES FOR AN AFFORDABLE HOUSING DEVELOPMENT AS AUTHORIZED BY N.J.S.A. 52:27D-301 ET SEQ. AND N.J.S.A. 52:27D-329.2 (BLOCK 71, LOT 1.01)

WHEREAS, by Resolution No. 25-122 adopted on June 12, 2025, the Borough of Red Bank (the “Borough”) has determined that the 40-unit affordable rental housing project (“Project”) to be renovated and rehabilitated on land designated as Block 71, Lot 1.01 (“Property”) will meet an existing housing need for affordable housing; and

WHEREAS, the Borough intends to spend affordable housing development fees on the Project; and

WHEREAS, the Borough Council has determined that the Project will qualify for a tax exemption under certain amendments to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq., which amendments were adopted in 2024, at N.J.S.A. 52:27D-329.2 et seq. (the “Law”); and

WHEREAS, in accordance with the Law, the proposed developer of the Project, WCP LOCUST LANDING MM, LLC (“Sponsor”), has requested a tax exemption for the Project in exchange for entering into an Agreement for Payments in Lieu of Taxes for the Project, to be executed by and between Sponsor and the Borough (“PILOT Agreement”); and

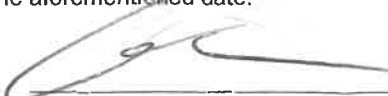
WHEREAS, the Borough Council wishes to execute a PILOT Agreement with Sponsor, in support of the Project, establishing the rights, responsibilities, and obligations of Sponsor in accordance with the Law; and

WHEREAS, the Borough Council makes the following findings regarding the relative benefits and costs of granting the tax abatement for the Project, and the importance of the tax abatement in realizing the development of the Project:

The Borough Council finds that the tax exemption granted pursuant to the PILOT Agreement will benefit the Borough and the community by meeting a current housing need. The benefits of granting the tax exemption will substantially outweigh the costs, if any, associated with the tax exemption. The tax exemption is important to the Borough and the Sponsor because without the incentive of the tax exemption, it is unlikely that the Project would be undertaken. The high costs associated with the development and rehabilitation of the Project and the real estate taxes that would otherwise be levied upon the Project would operate as a disincentive to the rehabilitation of affordable housing on the Property.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Red Bank, in the County of Monmouth, State of New Jersey, as follows:

1. The Mayor, or his designee, and the Borough Clerk are hereby authorized and directed to execute the PILOT Agreement with the Sponsor, in substantially the form submitted and attached hereto.
2. An executed copy of the PILOT Agreement shall be certified by and filed with the Office of the Borough Clerk.
3. Within ten (10) calendar days following the later of (i) the effective date of this Ordinance following its final adoption by the Borough Council approving the tax exemption or (ii) the execution of the PILOT Agreement by Sponsor, the Borough Clerk shall file certified copies of this Ordinance and the PILOT Agreement with the Borough Tax Assessor, the Chief Financial Officer of Monmouth County, Monmouth County Counsel, and the Director of the Division of Local Government Services.
4. The Mayor, or his designee, and the Borough Clerk are hereby authorized and directed to take such action and to execute such other related documents on behalf of the Borough as necessary to effectuate the terms of the PILOT Agreement, as may be deemed advisable by the Borough Attorney.
5. This Ordinance shall take effect upon adoption and publication according to law.

INTRODUCTION						COUNCILMEMBER	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				KRISTINA BONATAKIS		X	X			
		X				DAVID CASSIDY					X	
		X				NANCY FACEY-BLACKWOOD	X		X			
	X	X				BEN FOREST			X			
X		X				LAURA JANNONE			X			
		X				KATE TRIGGIANO			X			
		X				MAYOR WILLIAM PORTMAN			X			
Introduced: July 10, 2025						I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Red Bank, County of Monmouth, State of New Jersey on the aforementioned date.						
Final Adoption: July 24, 2025												
						 Mary Moss, RMC- Borough Clerk						

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

THIS AGREEMENT FOR A PAYMENT IN LIEU OF TAXES (this “Agreement”), made this ____ day of July, 2025, between WCP Locust Landing MM, LLC having its principal office at 550 River Road, 2nd Floor, Fair Haven, NJ 07704 (“**Sponsor**”) and the Borough of Red Bank, a municipal corporation in the County of Monmouth and State of New Jersey, with a mailing address of 90 Monmouth Street, Red Bank, NJ 07701 (“**Borough**”).

WITNESSETH

WHEREAS, the Sponsor is the contract purchaser of real property identified as Lot 1.01 in Block 71 on the Borough Tax Map and with an addressed at 105 Locust Landing Avenue in the Borough of Red Bank (the “**Property**”), more particularly described on **Exhibit A** attached hereto; and

WHEREAS, the owner of the Property, Locust Landing Urban Renewal, L.P. (“**Owner**”) has entered into a purchase and sale agreement with Sponsor to convey fee simple interest in the Property to Sponsor; and

WHEREAS, the Borough of Red Bank’s Third Round Housing Element and Fair Share Plan, adopted by the Borough’s Planning Board, and endorsed by the Borough Council pursuant to Resolution 2019-22 on April 15, 2019, acknowledges the existing 100% affordable, municipally sponsored, project of forty (40) family non-age-restricted rental units that is built and occupied (“**Development**”), for which Red Bank claims six (6) family rental credits relating to the Borough’s Prior Round unmet need obligation constructed on the Property; and

WHEREAS, the Borough adopted Resolution No 25-23 on January 23, 2025, regarding its Fourth Round prospective and present need, and filed a Declaratory Judgment Complaint seeking, among other things, a judgment of compliance and repose regarding its Fourth Round Housing Element and Fair Share Plan (“**DJ Action**”), pursuant to P.L. 2024, c.2; and

WHEREAS, the Borough is in the process of preparing and seeking approval of its Fourth Round Housing Element and Fair Share Plan (“**HEFSP**”) in connection with the DJ Action, and has received a proposal Sponsor seeking permission to renovate and rehabilitate the Development, resulting in a 100% affordable, municipally sponsored, housing development of forty (40) family non-age-restricted rental units (“**Project**”), enabling the Borough to claim at least forty (40) family rental credits in its HEFSP; and

WHEREAS, the Borough Planning Board adopted the HEFSP by Resolution #2025-07, on June 25, 2025, which was endorsed by the Governing Body of the Borough by Resolution# 2025-136 on June 26, 2025, which includes the Project as a compliance mechanism; and,

WHEREAS, the Borough is authorized, pursuant to certain amendments to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., which amendments were adopted in March of 2024, at N.J.S.A. 52:27D-329.2 et seq. (the “**Law**”) to grant an exemption for real estate taxes to housing projects that meet an existing housing need and remain subject to the affordability controls

pursuant to N.J.S.A. 52:27D-329, if the project's owner agrees to pay to the Borough an annual charge for municipal services supplied to the Project; and

WHEREAS, the Borough has determined in a Resolution of the Borough Council adopted on June 12, 2025 (the "**Resolution**") that the Project continues to meet an existing housing need; and

WHEREAS, the Borough has agreed to grant an exemption to the Project for real estate taxes and the Sponsor has agreed to make payments to the Borough in lieu; and

WHEREAS, in light of the foregoing, the Sponsor and the Borough desire to enter into this Agreement to memorialize the Sponsor's exemption from real property taxes and its obligation to make payments in lieu of such real property taxes.

NOW THEREFORE, the Sponsor and the Borough, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, it is mutually covenanted and agreed as follows:

1. This Agreement is made pursuant to the authority contained in Section 52:27D-239.2 of the Law and the Resolution.

2. Beginning on the date the Sponsor closes title to the Property ("**Tax Exemption Commencement Date**") the land and improvements comprising the Property and Project shall be exempt from all ad valorem real property taxes, provided that the Sponsor shall make payments in lieu of taxes to the Borough as provided hereinafter. The exemption of the Property and Project from ad valorem real property taxation and the Sponsor's obligation to make payments in lieu of taxes shall apply until the later of the satisfaction and discharge of the Sponsor's permanent mortgage (not merely construction) encumbering the Property (the "Mortgage"), or the expiration of the affordability controls (the "**Tax Exemption Expiration Date**").

3. From the Tax Exemption Commencement Date until Sponsor's substantial completion of the rehabilitation of the Property and Project, which shall be the date Sponsor receives Certificates of Occupancy for all three buildings comprising the Project ("**Substantial Completion**"), the Borough acknowledges and agrees that the Annual Service Charge (defined below) shall be equal to the Minimum Annual Service Charge (defined below).

4. (a) From the Tax Exemption Commencement Date until the Tax Exemption Expiration Date, the Sponsor shall pay to the Borough an annual service charge in lieu of taxes in the amount equal to the greater of: (i) 4% of Project Revenues, as defined below ("**Annual Service Charge**"); or, (ii) the total taxes levied against the Property in the last full tax year prior to the Tax Exemption Commencement Date ("**Minimum Annual Service Charge**").

(b) As used herein, "**Project Revenues**" means the total annual gross rental or carrying charge and 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.

(c) The estimated amounts of the Annual Service Charge to be paid each year pursuant to this Agreement are set forth in the estimated revenue projections/estimated Annual Service Charge table attached hereto as **Exhibit B**, which includes a general description of the Project and unit mix. It is expressly understood and agreed that the revenue projections provided to the Borough as set forth in **Exhibit B** 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 as set forth hereinbelow in this Agreement.

5. (a) Payments of the Annual Service Charge by the Sponsor shall be made on a quarterly basis in accordance with bills issued by the Tax Collector of the Borough in the same manner and on the same dates as real estate taxes are paid to the Borough and shall be based upon 4% of Project Revenues of the previous quarter.

(b) No later than four (4) months following the end of the Sponsor's fiscal year after the Tax Exemption Commencement Date, and each year thereafter that this Agreement remains in effect, the Sponsor shall submit to the Borough a certified, audited financial statement of the operation of the Project (the "**Audit**"), setting forth: (i) the Project Revenues for the previous year; and, (ii) the total Annual Service Charge due to the Borough, calculated at 4% of Project Revenues for the previous year (the "**Audit Amount**"). The Sponsor, simultaneously with the submission of the Audit, shall pay the difference, if any, between (i) the Audit Amount and (ii) the quarterly payments in lieu of real estate taxes made by the Sponsor to the Borough for the preceding fiscal year. The Borough 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 Borough shall credit the amount of such excess to the account of the Sponsor.

(c) All payments pursuant to this Agreement shall be in lieu of taxes, subject to the provisions of the Agreement, but the Borough 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 Borough. If, however, the Borough disputes any Audit Amount, it may apply to the Superior Court, Monmouth County for an accounting of the Project Revenues due the Borough, in accordance with this Agreement and Law.

(d) In the event of any delinquency in the aforesaid payments, the Borough shall give notice of the delinquency to the Sponsor in the manner set forth in 10(a) below, and allow Sponsor ninety (90) days to cure the delinquency prior to any legal action being taken.

6. The tax exemption herein shall apply only so long as the Sponsor or its successors and assigns and the Project remain subject to the provisions of the Law, but in no event after the Tax Exemption Expiration Date.

7. 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, not including the sale or transfer of any membership interest, this Agreement shall be assigned to the Sponsor's successor without the Borough's consent, but upon no less than thirty (3) days prior written notice to the Borough, and shall continue in full force and effect so long as the successor entity qualifies under the Law.

8. 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 Law, or any other applicable state law, the Property and the Project shall be taxed as omitted property in accordance with applicable law.

9. The Sponsor, its successors and assigns shall, upon request, permit duly authorized representatives of the Borough inspect and examine (a) the Property; (b) the equipment, buildings and other facilities of the Project; and, (c) all documents and papers relating to the Project. Any such inspection or examination shall be made during reasonable hours of the business day, in the presence of an officer or agent of the Sponsor, including its successors and assigns.

10. 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 Borough to the Sponsor, it shall be addressed to WCP Locust Landing MM, LLC , 550 River Road, 2nd Floor, Fair Haven, NJ 07704, or to such other address as the Sponsor may hereafter designate in writing.

(b) When sent by the Sponsor to the Borough, it shall be addressed to the Borough Deputy Clerk, Borough of Red Bank, 90 Monmouth Street, Red Bank, NJ 07701, or to such other address as the Borough may designate in writing.

11. 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, Monmouth County to settle and resolve said dispute in such fashion as will tend to accomplish the purposes of the Law.

12. This Agreement sets forth all of the promises, covenants, agreements, conditions and understandings between the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, with respect thereto.

13. If any clause, sentence, subdivision, paragraph, section or part of this Agreement be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part hereof directly involved in the controversy in which said judgment shall have been rendered.

14. 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 this Agreement by each party hereto.

15. This Agreement may be assigned by the Sponsor to an affiliate of the Sponsor, provided that such affiliate develops the Project in accordance with the terms and conditions set forth in this Agreement.

16. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

17. This Agreement shall be governed by and construed by the laws of the State of New Jersey.

ATTEST

SPONSOR: WCP Locust Landing MM, LLC

By: _____

By: _____

ATTEST

BOROUGH: Borough of Red Bank

By: _____

Mary Moss, RMC- Borough Clerk

William Portman, Mayor

Exhibit A

Legal Description

Tax Map Reference. (N.J.S.A. 46:15-2.1) Municipality of Red Bank
Lot 1.01, Block 71.

Property. The property consists of land and all the buildings and structures on the land in the Borough of Red Bank, County of Monmouth and the State of New Jersey, more particularly described as follows:

Known and designated as Lots Nos. 28, 29, 30, 31, 32, 33, 34 and 35 as shown on "Map of Property of W.K. Kelly, Red Bank, New Jersey", May 22, 1915 George D. Cooper, C.E., Red Bank, New Jersey.

BEGINNING at a point of intersection of the southerly side of Locust Avenue with the westerly side of Locust Place as shown on said map; thence (1) Along the westerly side of Locust Place, South 1 degree 37 minutes West 194.60 feet to a point; thence (2) North 85 degrees 07 minutes West 297.80 feet to the high water line of the North Shrewsbury River; thence (3) Along the high water line of the North Shrewsbury River in a northeasterly direction following the various courses thereof 217 feet more or less to a point in the southerly side of Locust Avenue; thence (4) Along the southerly side of Locust Avenue South 85 degrees 40 minutes East 185.90 feet to the point or place of **BEGINNING**.

PREMISES being more particularly described in accordance with a survey made by St. Louis & Waxurek, dated 11/7/85, as follows:

BEGINNING at a point in the southerly sideline of Locust Avenue at its intersection with the westerly sideline of Locust Place and running thence (1) Along the southerly sideline of Locust Avenue above, South 84 degrees 56 minutes 25 seconds West, 264 feet, more or less, to the Mean High Water Line of the North Shrewsbury River; thence (2) Beginning again at the point of beginning and running thence along the westerly sideline of Locust Place above, South 7 degrees 46 minutes 35 seconds East, 194.61 feet; thence (3) South 85 degrees 30 minutes 03 seconds West, 357 feet, more or less, to the Mean High Water Line of the North Shrewsbury River; thence (4) Along said mean High Water Line, in a general northeasterly direction to the various courses and distances be what they may to the end of the first course herein and there to end.

Together with riparian rights if any appurtenant to the above described premises, with all rights, hereditaments, and appurtenances thereunto appertaining.

Exhibit B

Estimated Project Revenues