

ORDINANCE NO. 2273

**ORDINANCE OF THE BOROUGH OF ROSELLE PARK,
COUNTY OF UNION, NEW JERSEY
APPROVING A LONG TERM TAX EXEMPTION AND
AUTHORIZING EXECUTION OF A FINANCIAL AGREEMENT**

WHEREAS, the Borough, pursuant to the Local Redevelopment and Housing Law *N.J.S.A. 40A:21A-1, et seq.* (the “Act”), seeks to cause the redevelopment of a portion of the Borough consisting of Block 213, Lot 1 and Block 314 Lot 1 (the “Property”); and

WHEREAS, pursuant to Section 4 of the Act (*N.J.S.A. 40A:12A-4*), the Borough has determined to act as the “Redevelopment Entity” (as such term is defined in the Act at *N.J.S.A. 40A:12A-3*) for the Redevelopment Area and to exercise the powers contained in the Act to facilitate the development and redevelopment of the Redevelopment Area; and

WHEREAS, the Redevelopment Plan provided, among other things, for the construction on the Property of 249 residential units (the “Project”); and

WHEREAS, the Entity (as further defined herein) has agreed to implement the Redevelopment Plan as to the Property and develop, design, finance and construct the Project, and in connection therewith, the Entity has agreed to devote substantial cash assets and/or borrowed funds to the completion of the Project; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the Borough will enter into an agreement (the “Financial Agreement”) with an urban renewal entity to be formed by Roselle Park VP, LLC qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, *N.J.S.A. 40A:20-1, et seq.* (the “Long Term Tax Exemption Law”), along with its successors and/or assigns (hereinafter referred to as the “Entity”) governing payments made to the Borough in lieu of real estate taxes (“Annual Service Charge”) on the Project pursuant to *N.J.S.A. 40A:20-1 et seq.* (the “Long Term Tax Exemption Law”); and

WHEREAS, the Entity is or will be, before execution of the Financial Agreement, qualified to do business under the provisions of the Long Term Tax Exemption Law and has submitted to the Mayor a tax exemption application (including a proposed Financial Agreement), which is on file with the Borough Clerk (the “Application”) requesting a tax exemption for the Project; and

WHEREAS, the Mayor has submitted the Application and Financial Agreement to the Council with his recommendation for approval, subject to the condition that the Entity pay, in lieu of tax payments on improvements on the Property, the Annual Service Charge (the “Mayor’s Recommendation”), a copy of which recommendation is on file with the Borough Clerk; and

WHEREAS, the Council has determined that the Project represents an undertaking permitted by the Long Term Tax Exemption Law, and has further determined that the Project is an improvement made for the purposes of clearance, replanning, development, or redevelopment of an area in need of redevelopment within the Borough, as authorized by the Long Term Tax Exemption Law; and

WHEREAS, the Borough, in its capacity and in the exercise of its power as Redevelopment Entity, finds the Project shall promote and further the redevelopment of the Borough by providing among other things, affordable residential units in the Borough.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF ROSELLE PARK, NEW JERSEY AS FOLLOWS:

1. The Mayor and/or Borough Clerk, in consultation with counsel to the Borough, are hereby authorized to execute and/or amend, modify or make such necessary changes to the Application, the Mayor's Recommendation, the Financial Agreement and any other agreements necessary to effectuate the Financial Agreement.

2. An exemption from taxation as set forth in the Financial Agreement is hereby granted to the Entity, with respect to the Project on the Property for the term set forth in the Financial Agreement; provided that in no event shall the tax exemption exceed the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) to the extent permitted by N.J.S.A. 40A:20-13, thirty (30) years from the Entity's receipt of a Certificate of Occupancy for the Project and only so long as the Entity remains subject to and complies with the Financial Agreement and the Long Term Tax Exemption Law and any other agreement related to the Project or the Property.

3. The executed copy of the Financial Agreement shall be certified by and be filed with the Office of the Borough Clerk.

4. The Project shall conform with all Federal and State law and ordinances and regulations of the Borough relating to its construction and use.

5. The Entity shall, in the operation of the Project, comply with all laws so that no person because of race, religious principles, color, national origin or ancestry, will be subject to discrimination.

6. The Entity shall, from the time the Annual Service Charge becomes effective, pay the Annual Service Charge as set forth in the Financial Agreement.

7. The following occurrences are express conditions to the grant of this tax exemption to be performed by the Entity:

(a) The Entity shall not, without prior consent of the Borough as set forth in the Financial Agreement, convey, mortgage or transfer all or any part of the Project which would

sever, disconnect or divide the improvements being tax exempted under the Financial Agreement from the land underlying the exempted improvements.

(b) The Entity shall complete the Project within the timeframes set forth in the Redevelopment Agreement.

8. The Financial Agreement with the Entity is a necessary inducement to the undertaking of the Project in that such Financial Agreement will make the construction and operation of the Project financially viable.

Introduced: July 16, 2009

Adopted:

Mayor

Attest: _____
Borough Clerk