

**BOROUGH OF NORTH CALDWELL**  
**O-2-17**

**An Ordinance of the Borough of North Caldwell**  
**Authorizing the Granting of a Long Term Tax Exemption and the**  
**Execution of a Financial Agreement with**  
**White Rock Urban Renewal Associates, L.P.**  
**Pursuant to N.J.S.A. 40A:20-1 et. seq.**

**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 Borough filed an action with the Superior Court of New Jersey ("Court") in Essex County, entitled In the Matter of the Application of the Borough of North Caldwell, County of Essex, Docket No. ESX-L-4696-15, seeking a Judgment of Compliance and Repose approving its Housing Element and Fair Share Plan ("Affordable Housing Plan"), in addition to related reliefs, including temporary immunity from all Mount Laurel lawsuits; and

**WHEREAS**, the Court granted the Borough's motion for temporary immunity from all Mount Laurel lawsuits, which was subsequently extended via a series of orders, and is still in full force and effect today; and

**WHEREAS**, on June 25, 2015 the Borough issued an RFP to attract a Developer to build a 50-unit, 100 percent affordable housing project (the "Project") located within an area designated for redevelopment by the Borough of North Caldwell (the "Redevelopment Area"); and

**WHEREAS**, RPM Development, L.L.C. ("RPM") submitted a proposal to be designated by the Borough as the Redeveloper of a subdivided portion of the Redevelopment Area known and designated on the Official Tax Map of the Borough of North Caldwell as Block 101, Lot 3.02 (the "Property") and to acquire title thereto from the Borough to develop the Project; and

**WHEREAS**, the Borough reviewed RFP responses from 17 developers, and chose RPM to build the Project; and

**WHEREAS**, in order to implement the development, financing, construction, operation and management of the Project, on December 20, 2016 the Borough Council of the Borough of North Caldwell adopted Resolution Number R-212-16 approving a Redevelopment Agreement with RPM, which Agreement specifies the rights and responsibilities of the Borough, confirms the appointment of RPM as the Redeveloper of the Project and specifies the rights and responsibilities of the Redeveloper with respect to the Project, and said Redevelopment Agreement was subsequently executed by both parties; and

**WHEREAS**, the Redevelopment Agreement provides that the Borough will grant the Project a Long Term Tax Exemption to achieve the Borough's redevelopment goals and objectives; and

**WHEREAS**, RPM has established White Rock Urban Renewal Associates, L.P. (the "Entity") to develop the Project and made application, on its own behalf on and behalf of the Entity for a Long Term Tax Exemption for the Project; and

**WHEREAS**, the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et.seq. authorizes a municipality to enter into a Financial Agreement with an urban renewal entity undertaking development and construction of a low or moderate income housing project, granting a long term tax exemption to the project; and

**WHEREAS**, the Entity is qualified to do business under the provisions of the New Jersey Long Term Tax Exemption Law and has made application to the Borough of North Caldwell for (i) the approval of the Project; (ii) the grant of a long term tax exemption for the Project; and (iii) the execution of the Financial Agreement, which is attached hereto as Exhibit A; and

**WHEREAS**, the Project meets an existing need, as defined in the New Jersey Local Redevelopment and Housing Law N.J.S.A. 40A:12A-1, et. seq., and the Entity has demonstrated that the Project is an improvement made for the purposes of clearance, re-planning, development or redevelopment within the Redevelopment Area as provided for in the Local Redevelopment and Housing Law.

**NOW, THEREFORE, be it Ordained by the Municipal Council of the Borough of North Caldwell that:**

1. The application of White Rock Urban Renewal Associates, L.P. for the grant of a long term tax exemption for the Project and the execution of attached Financial Agreement be and is hereby approved.

2. The exemption from taxation on improvements to be constructed by the Entity on Block 101, Lot 3.02 be and is hereby approved for a period of thirty (30) years from the date of substantial completion of the Project, but only so long as the Entity is subject to and in compliance with the terms of the Financial Agreement and the Long Term Tax Exemption Law.

3. The Mayor of the Borough of North Caldwell be and is hereby authorized to execute on the Borough's behalf the aforementioned Financial Agreement, which is attached hereto as Exhibit A.

4. An executed copy of the Financial Agreement authorized by this Ordinance shall be kept on file in the office of the Borough Clerk for purposes of review and record.

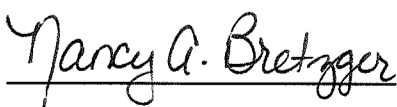
5. The Project, when completed, shall conform with all State laws and ordinances of the Borough of North Caldwell relating to its construction and use.

6. The Entity shall pay an annual service charge based on five percent (5%) of the annual gross revenue generated from the Project as set forth in the Financial Agreement. The annual service charge rate shall be fixed for the entire term of the tax exemption but after the initial fifteen (15) years of the term the minimum annual service charge shall be determined as otherwise set forth in the Financial Agreement. Following submission of an annual auditor's report within ninety (90) days of the end of each fiscal or calendar year, the Borough and the Entity shall adjust any over payment or under payment determined for the audited period.

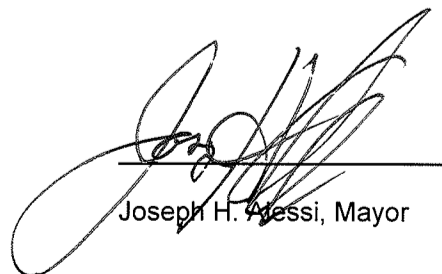
7. The Entity shall submit a total Project cost audit by certified public accountants within ninety (90) days following substantial completion of the project.

INTRODUCED: March 29, 2017  
PUBLIC HEARING: April 25, 2017  
APPROVED: April 25, 2017

ATTEST:



Nancy A. Bretzger, Borough Clerk



Joseph H. Alessi, Mayor