

**TOWNSHIP OF PENNSAUKEN, NEW JERSEY**

**ORDINANCE NO. 2022.21**

---

**ORDINANCE AUTHORIZING THE ASSIGNMENT AND AMENDMENT OF THAT CERTAIN REAL ESTATE TAX EXEMPTION AGREEMENT BETWEEN THE TOWNSHIP OF PENNSAUKEN AND PENNSAUKEN TOWERS URBAN RENEWAL LLC IN CONNECTION WITH THE PENNSAUKEN SENIOR TOWERS AFFORDABLE HOUSING PROJECT**

---

**WHEREAS**, the Township of Pennsauken ("Township") is committed to the preservation of affordable housing as a necessary and valuable resource for its citizen; and

**WHEREAS**, Pennsauken Senior Towers, an 8-story, 101 one-bedroom apartment unit senior affordable housing facility ("Pennsauken Towers" or the "Project") was developed and opened in 1981 to assist low-income seniors to obtain safe decent and affordable housing with the use of United States Housing and Urban Development ("HUD") Section 8, project based subsidies contingent upon a local payment in lieu of taxes agreement between the developer (formerly Pennsauken Housing Associates) and the Township; and

**WHEREAS**, over the past 41 years, Pennsauken Towers has provided a source of safe, decent and well-maintained affordable housing for the senior citizens of; and

**WHEREAS**, the senior citizen residents of Pennsauken Towers currently pay an average rent, which based on 30 % of their total income, is less than 50% of that charged in the open market; and

**WHEREAS**, the existing HUD Section 8 contract for Pennsauken Towers will expire in the year 2031: and

**WHEREAS**, the Township has received low-income housing development credits from the Council on Affordable Housing for Pennsauken Towers, which may be extended if and to the Project is re-capitalized under Section 42 of the Low-Income Housing Tax Credit Program and continued as affordable housing; and

**WHEREAS**, the present owner of Pennsauken Towers, Pennsauken Towers Urban Renewal, LLC ("PTUR"), and its designated successor, Pennsauken Towers Preservation Partners, LLC ("PTPP"), are seeking to renovate apartments, upgrade systems and preserve the complex as an affordable housing resource for seniors, subject to successful application for Federal Tax Credits and receipt of a new 20-year extension of the project- based HUD Section 8 contract: and

**WHEREAS**, the application for Section 42 Low Income Housing Tax Credits to the New

Jersey Housing and Mortgage Finance Agency ("NJHMFA") will include a 30-year NJHMFA facilitated mortgage, to be accompanied by a financial agreement ("New Agreement") with the Township extending the period for the abatement of taxes levied against the improvements constituting Project and, in lieu thereof, the payment of certain amounts calculated in accordance with the New Agreement and applicable, which New Agreement will amend and restate in its entirety the existing real estate tax exemption agreement entered into on September 10, 1979, as such agreement has been amended and supplemented to date (as amended and supplemented, the "Original Agreement"); and

**WHEREAS**, eligibility for the award of Section 42 Low Income Housing Tax Credits requires a transfer of ownership to a new eligible redevelopment entity, who will enter into a 20-year extension of the HUD Housing Assistance Payment contract in conjunction with the Section 42 Low Income Housing Tax Credit undertaking and subsequent upgrading and renovation of the building systems and apartments: and

**WHEREAS**, in furtherance of such requirement, PTUR will transfer its ownership interest in the Project to PTPP; and

**WHEREAS**, the Township finds that it is in the best interest of the Township, its senior citizens population and the public at large to facilitate the preservation of Pennsauken Towers as a HUD Section 8 assisted complex and a valuable housing resource for senior citizens; and

**WHEREAS**, the Township Committee of the Township of Pennsauken hereby desires to authorize and approve: (i) the transfer of the ownership of the Project from PTUR to PTPP; (ii) the assignment of the Original Agreement from PTUR to PTPP and the execution and delivery of an assignment agreement by and among the Township, PTUR and PTPP to memorialize the terms and conditions of such assignment; and (iii) upon assignment, the amendment and restatement of the Original Agreement by and through the execution and delivery of the New Agreement, a copy of which is attached thereto as Exhibit A and made a part hereof, pursuant to the terms and conditions as set forth therein; and

**NOW THEREFORE, BE IT ORDAINED, BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF PENNSAUKEN, NEW JERSEY, AS FOLLOWS:**

**Section 1.** The Township consents, approves and permits: (i) the transfer of ownership of the Project from Pennsauken Towers Urban Renewal, LLC to Pennsauken Towers Preservation Partners, LLC; and (ii) the assignment of the Original Agreement from Pennsauken Towers Urban Renewal, LLC to Pennsauken Towers Preservation Partners, LLC on the condition that Pennsauken Towers Preservation Partners, LLC assumes all of Pennsauken Towers Urban Renewal, LLC's obligations under the Original Agreement.

**Section 2.** The Township hereby authorizes the execution and delivery of the New Agreement to amend and restate in its entirety the Original Agreement in the form attached to this Ordinance as Exhibit "A" (with such changes as shall be deemed necessary and advisable by the Township and its counsel and professional advisors), which New Agreement shall include, among other things, the following material terms:

- (i) Extension of the term of the Original Agreement for a period coterminous with the earlier to occur of (A) the termination of contract authorizing the Project's eligibility for receipt of HUD Section 8 housing assistance, and (B) the repayment or termination of the 30-year NJHMFA facilitated mortgage;
- (ii) Increase the current payment in lieu of taxes (i.e., the annual service charge) from 3% of Project Revenues (as such term is defined in the New Agreement) to 4.11% of Project Revenue until March 31, 2031;
- (iii) Increase the annual service charge from and after March 31, 2031 (and for the remaining term of the New Agreement) to 6.28% of Project Revenues; and
- (iv) Upon the date that the NJHMFA (or other applicable issuing entity) issues bonds, the proceeds of which will be utilized, in part, for the renovation and rehabilitation of the Project, Pennsauken Towers Preservation Partners, LLC (or its successor or assign) will make a one-time supplementary payment in lieu of taxes payment to the Township in the amount of \$182,993.

**Section 3.** Any portion of this ordinance not herein amended and supplemented shall remain in full force and effect.

**Section 4.** All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistencies only.

**Section 5.** This ordinance shall take effect twenty (20) days after final passage and publication as provided by law.

FIRST READING:

SECOND READING:

**TOWNSHIP OF PENNSAUKEN**

---

**Pamela Scott-Forman,  
Municipal Clerk**

**EXHIBIT A**

**FORM OF NEW AGREEMENT**

## EXHIBIT A

### Pennsauken Towers Calculation of PILOT Payment

Total Rental Income	\$1,391,072
LESS:	
Vacancy, Losses & Concessions	<u>(\$22,181)</u>
Net Rental Income	\$1,368,891
ADD:	
Other Income	<u>\$48,889</u>
Total Project Income	\$1,417,780
	4.111%
PILOT @ 4.11 % of Total Income Until 3/31/31	\$58,285

Note 1: A supplemental **one-time PILOT payment of \$182,993** will be made when Bonds are issued for Project

Note 2: The Payment in Lieu of Taxes percentage will increase to **6.28%** as of **4/1/2031**

## **EXHIBIT "B"**

### AMENDED AND RESTATED AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Pennsauken Towers, HMFA #(s) TBD

THIS AMENDED AND RESTATED AGREEMENT FOR PAYMENT IN LIEU OF TAXES amends and restates in its entirety that certain "Real Estate Tax Exemption Agreement" entered into on September 10, 1979, as such agreement has been amended and supplemented to date, and is made this \_\_\_\_\_ day of \_\_\_\_\_ 2022, between **PENNSAUKEN TOWERS PRESERVATION PARTNERS, LLC**, a limited liability company, of the State of New Jersey, having its principal office at 587 Haddon Avenue, Collingswood, New Jersey 08108 (hereinafter, the "Sponsor") and the **TOWNSHIP OF PENNSAUKEN**, a municipal corporation in the County of Camden and State of New Jersey (hereinafter, the "Municipality").

### WITNESSETH

In consideration of the mutual covenants herein contained and for other good and valuable consideration, it is mutually covenanted and agreed as follows:

1. This Agreement is made pursuant to the authority contained in Section 37 of the New Jersey Housing and Mortgage Finance Agency Law of 1983 (N.J.S.A. 55:14K-1 et seq.) (hereinafter "HMFA Law") and a Resolution of the Township Committee of Pennsauken adopted on August 4, 2022 (the "Resolution"), and with the approval of the New Jersey Housing and Mortgage Finance Agency (hereinafter the "Agency"), as required by N.J.S.A. 55:14K-37.

2. The Project is a senior affordable housing development situated on that parcel of land designated as Block 4301, Lot 2 as shown on the Official Assessment Map of the Township of Pennsauken in the State of New Jersey, and more commonly referred to as "Pennsauken Towers". The Project will remain a senior affordable housing development for the entire term of this Agreement.

3. As of the date the Sponsor executes a first mortgage upon the Project in favor of the Agency ("Commencement Date") the land and improvements comprising the Project shall continue to be exempt from real property taxes, provided that the Sponsor shall make payments in lieu of taxes to the Municipality as provided hereinafter. The exemption of the Project from real property taxation and the Sponsor's obligation to make payments in lieu of taxes shall not extend beyond the date on which the mortgage made by the Sponsor in favor of the Agency (hereinafter referred to as the "Agency Mortgage") is paid in full, which according to the HMFA Law, may not exceed fifty (50) years

4. From and after the date of the Agency Mortgage and for the period through and including March 31, 2031, the Sponsor shall make payments in lieu of taxes to the Township in an amount equal to 4.11% of Project Revenues. As used herein, "Project Revenues" means the total annual gross rental or carrying charge or other income of the Sponsor from operating the

Project, less common area utility cost and vacancies, if any. Project Revenues specifically does not include any grants, loans, equity contributions or other funds contributed to the project for any purpose related to the acquisition, construction, rehabilitation or the establishment of any required reserves for the Project.

5. From and after April 1, 2031, Sponsor shall increase its payment to 6.28% percent of Project Revenues and shall continue to make such payment for the remainder of the term of the Agency Mortgage.

6. In addition to the amounts set forth in Paragraphs 4 and 5 above, Sponsor shall make a payment of \$182,993 ("Supplemental Payment") on the date of closing of the bonds or other obligations issued by the Agency (or other applicable issuing authority or entity) in connection with low-income housing tax credit mortgage financing for the Project ("Bonds Closing Date"), such Bonds Closing Date to be provided by the Sponsor, in writing, to the Municipality no later than fifteen (15) days prior to the closing of such Agency financing.

7. The amount of payment in lieu of taxes to be paid pursuant this Agreement is calculated in Exhibit "A" attached hereto. It is expressly understood and agreed that the revenue projections provided to the Municipality as set forth in Exhibit "A" 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 pursuant to Paragraphs 4, 5 and 6 above and pursuant to Paragraph 9 below.

8. The Sponsor agrees to maintain the Project as a senior affordable housing development for the entire term of the Agreement. If the Project ceases to be a senior affordable housing development, this Agreement is void and the Property reverts to being taxed according to the Township's annual tax assessment as of the date it ceased being a senior housing development.

9. (a) Except for the Supplemental Payment, which shall be made on the Bonds Closing Date, all other payments by the Sponsor shall be made on a quarterly basis in accordance with bills issued by the Tax Collector of the Municipality in the same manner and on the same dates as real estate taxes are paid to the Municipality and shall be based upon Project Revenues of the previous year. No later than three (3) months following the end of the first fiscal year of operation after and each year thereafter that this Agreement remains in effect, the Sponsor shall submit to the Municipality a certified, audited financial statement of the operation of the Project (the "Audit"), setting forth the Project Revenues and the total payments in lieu of taxes due to the Municipality calculated as per Paragraphs 4 and 5 above. The Sponsor simultaneously shall pay the difference, if any, between (i) the Audit Amount and (ii) payments made by the Sponsor to the Municipality for the preceding fiscal year. The Municipality 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 Municipality shall credit the amount of such excess to the account of the sponsor.

(b) All payments pursuant to this Agreement shall be in lieu of taxes and the Municipality 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

Municipality. If, however, the Municipality disputes the total amount of the annual payment in lieu of taxes due it, based upon the Audit, it may apply to the Superior Court, Chancery Division for an accounting of the service charge due the Municipality, in accordance with this Agreement and NJHMFA Law. Any such action must be commenced within one year of the receipt of the Audit by the Municipality.

(c) In the event of any delinquency in the aforesaid payments, the Municipality shall give notice to the Sponsor and NJHMFA in the manner set forth in 10(a) below, prior to any legal action being taken.

10. In addition to the provisions set forth in Paragraph 8 above, the tax exemption provided herein shall apply only so long as the Sponsor or its successors and assigns and the Project remain subject to the provisions of the NJHMFA Law and Regulations made thereunder and the supervision of the Agency, but in no event longer than the term of the Agency Mortgage. 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, this Agreement shall be assigned to the Sponsor's successor and shall continue in full force and effect so long as (i) the successor entity qualifies under the HMFA Law or any other state law applicable at the time of the assignment of this Agreement and assumes the Agency Mortgage, and (ii) prior written notice is provided by the Sponsor to the Municipality of (A) such sale, transfer or conveyance of the Project, or (B) a change in the organizational structure of the Sponsor. The Municipality shall, thereafter, have the right to approve or disapprove such a sale, transfer or conveyance, or change of organizational structure, in its discretion, which will not be unreasonably delayed, conditioned or withheld.

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

12. The Sponsor, its successors and assigns shall, upon request, permit inspection of property, equipment, buildings and other facilities of the Project and also documents and papers by representatives duly authorized by the Municipality. Any such inspection, examination or audit shall be made during reasonable hours of the business day, in the presence of an officer or agent of the Sponsor or its successors and assigns.

13. 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 Municipality to the Sponsor, it shall be addressed to Pennsauken Towers Preservation Partners, LLC, Owner, Pennsauken Tower, 8001 Maple Avenue, Pennsauken, New Jersey 08109 or to such other address as the Sponsor may hereafter designate in writing and a copy of said notice or communication by the Municipality to the Sponsor shall be sent by the Municipality to the New Jersey Housing and Mortgage Finance Agency, 637 South Clinton Avenue, P.O. Box 18550, Trenton, New Jersey 08650-2085, with an additional copy sent to PRD Management Inc, 587 Haddon Avenue, Collingswood, NJ 08108.

(b) When sent by the Sponsor to the Municipality, it shall be addressed to the Township of Pennsauken, 5605 N. Crescent Blvd, Pennsauken, New Jersey 08110 or to such other address as the Municipality may designate in writing; and a copy of said notice or communication by the Sponsor to the Municipality shall be sent by the Sponsor to the New Jersey Housing and Mortgage Finance Agency, 637 South Clinton Avenue, P.O. Box 18550, Trenton, New Jersey 08650-2085.

14. 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, Chancery Division, to settle and resolve said dispute in such fashion as will tend to accomplish the purposes of the NJHMFA Law.

15. 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.

**IN WITNESS WHEREOF**, Sponsor and Municipality have executed this Agreement as of the date first above-written.

PENNSAUKEN TOWERS  
PRESERVATION PARTNERS, LLC

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
James McGrath

(SEAL)

ATTEST:

TOWNSHIP OF PENNSAUKEN

\_\_\_\_\_  
Pamela Scott-Forman,  
Municipal Clerk

By: \_\_\_\_\_  
Jessica Rafeh, Mayor

(SEAL)