

City Clerk File No. \_\_\_\_\_ Ord. 09-069

Agenda No. \_\_\_\_\_ 3.A \_\_\_\_\_ 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



# ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 09-069

TITLE:

**AN ORDINANCE OF THE CITY OF JERSEY CITY, IN THE COUNTY OF HUDSON, NEW JERSEY, PROVIDING FOR THE ACQUISITION OF VARIOUS FIRE DEPARTMENT EQUIPMENT AND APPARATUS BY MEANS OF A LOAN FROM THE HUDSON COUNTY IMPROVEMENT AUTHORITY AND APPROPRIATING \$2,000,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$2,000,000 IN GENERAL IMPROVEMENT BONDS OR NOTES OF THE CITY OF JERSEY CITY TO FINANCE THE SAME.**

**BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY, IN THE COUNTY OF HUDSON, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:**

**Section 1.** The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the City of Jersey City, in the County of Hudson, New Jersey (the "City") as a general improvement. For the improvement or purpose described in Section 3 hereof, there is hereby appropriated the sum of \$2,000,000. No down payment is required in connection with the authorization of bonds and notes pursuant to N.J.S.A. 40A:2-11(c) as this bond ordinance authorizes obligations in accordance with N.J.S.A. 40A:2-7(d).

**Section 2.** In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$2,000,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

**Section 3.** The improvement hereby authorized and the purpose for which the bonds or notes are to be issued is the acquisition of various fire department apparatus and equipment,

including, but not limited to, a combination of pumper and ladder trucks, including all work and materials necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8.1. The chief financial officer is hereby authorized to sell part or all of the notes from time to time, at not less than par and accrued interest, at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the City Clerk and is available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. It is an improvement or purpose the City may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose, within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 10 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$2,000,000, that the net debt of the City determined as provided in the Local Bond Law is increased by \$2,000,000, and the obligations authorized herein will be within all debt limitation prescribed by that Law.

(d) An aggregate amount not exceeding \$30,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

(e) This bond ordinance authorizes obligations of the City solely for a purpose described in N.J.S.A. 40A:2-7(d). This purpose is in the public interest and is for the health, welfare, convenience or betterment of the inhabitants of the City. The amounts to be expended for this purpose pursuant to this bond ordinance are not unreasonable or exorbitant, and the issuance of the obligations authorized by this bond ordinance will not materially impair the credit of the City or substantially reduce its ability to pay punctually the principal of and the interest on its debts and to supply other essential public improvements and services. The Local Finance Board in the Division of Local Government Services of the Department of Community Affairs of the State of New Jersey has heretofore made a determination to this effect and has caused its consent to be endorsed upon a certified copy of this bond ordinance as passed upon first reading.

(f) The City reasonably expects to commence acquisition and/or construction of the project described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced,

the City further reasonably expects to reimburse such expenditures from the proceeds of the bonds or notes authorized by this bond ordinance, in an aggregate not to exceed the amount of bonds or notes authorized in Section 2 hereof.

Section 7. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the City is hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy ad valorem taxes upon all the taxable real property within the City for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. After passage upon first reading of this bond ordinance, the City Clerk is hereby directed to publish the full text of the bond ordinance, together with the notice set forth below entitled: "NOTICE OF PENDING BOND ORDINANCE" (with appropriate completions, insertions and corrections), at least once in a newspaper qualified under N.J.S.A. 40A:2-19, at least seven days prior to the date set for public hearing and further consideration for final passage (which date shall be at least ten days after introduction and first reading). The City Clerk is further directed to comply with all provisions of N.J.S.A. 40A:2-17(b) regarding postings, publications, and the provision of copies of this bond ordinance.

Section 10. After final adoption of this bond ordinance by the Municipal Council, the City Clerk is hereby directed to publish the full text of this bond ordinance, as finally adopted, together with the notice set forth below entitled: "NOTICE OF ADOPTION OF BOND ORDINANCE" (with appropriate completions, insertions and corrections), at least once in a newspaper qualified under N.J.S.A. 40A:2-19.

Section 11. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 12. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by Section 10 hereof and the Local Bond Law.

APPROVED AS TO LEGAL FORM

APPROVED: Norma Haver, CFO  
APPROVED: B. O'Reilly  
Business Administrator

\_\_\_\_\_  
Corporation Counsel

Certification Required   
Not Required

City Clerk File No. Ord. 09-070

Agenda No. 3.B 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



# ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 09-070

**TITLE: ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AN AMENDMENT TO THE LAND DEVELOPMENT ORDINANCE §345-31 –  
APPLICATION AND CHECKLISTS**

**WHEREAS**, the Municipal Council of the City of Jersey City last amended the Land Development Ordinance on June 11, 2008; and

**WHEREAS**, this amendment incorporates an application procedure for review of Solid Waste and Recycling Management for all multi-family buildings citywide; and

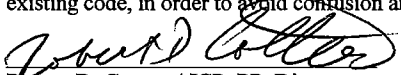
**WHEREAS**, the Planning Board of Jersey City has reviewed said amendment and voted unanimously to recommend its adoption to the Municipal Council at their meeting of May 26, 2009; and

**WHEREAS**, the recommended amendment to the Land Development Ordinance is attached hereto and made a part hereof, which amendment is available for public inspection in the Office of the City Clerk, City Hall, Jersey City, NJ;

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Jersey City that the above referenced amendment to the Morris Canal Redevelopment Plan be, and hereby is, adopted.

**BE IT FURTHER ORDAINED THAT:**

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the Jersey City Code as though codified and set forth fully herein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- C. This ordinance shall take effect at the time and in the manner as provided by law.
- D. The City Clerk and the Corporation Council be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible repealers of existing provisions.

  
Robert D. Cotter, AICP, PP, Director  
Division of City Planning

APPROVED AS TO LEGAL FORM  
  
Corporation Council

APPROVED:   
APPROVED:   
Business Administrator

Certification Required   
Not Required

**ORDINANCE FACT SHEET**

**1. Full Title of Ordinance:**

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AN AMENDMENT TO THE LAND DEVELOPMENT ORDINANCE –  
GENERAL APPLICATION PACKAGE**

**2. Name and Title of Person Initiating the Ordinance, etc.:**

Carl Czaplicki, Director, Department of Housing, Economic Development and Commerce

**3. Concise Description of the Program, Project or Plan Proposed in the Ordinance:**

This ordinance amends the Land Development Ordinance §345-34 Application and Checklists. The amendment will add an application procedure for review of Solid Waste and Recycling Management for all multi-family buildings citywide.

**4. Reasons for the Proposed Project:**

To bring municipal site plan review of Solid Waste and Recycling Management into conformity with State, County, and Local Ordinances.

**5. Anticipated Benefits to the Community:**

Solid Waste and Recycling Management review for the health of the community and environment.

**6. Cost of Proposed Program, Project, etc.:** \$0.00, all work was done in house

**7. Date Proposed Program or Project will commence:** Upon Adoption

**8. Anticipated Completion Date:** N/A

**9. Person Responsible for Coordinating Proposed Program, Project, etc.:**

Robert D. Cotter, Director, City Planning 547-5050  
Maryann Bucci-Carter, City Planning 547-4499

**10. Additional Comments:** None

I Certify that all the Facts Presented Herein are Accurate.

  
Division Director

MAY 26, 2009  
Date

  
Department Director Signature

5/26/09  
Date

## Summary

### **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AN AMENDMENT TO THE LAND DEVELOPMENT ORDINANCE §345-31 – APPLICATION AND CHECKLISTS**

This ordinance amends the Land Development Ordinance. The amendment will incorporate an application procedure for review of Solid Waste and Recycling Management for all multi-family buildings citywide.

City Clerk File No. Ord. 09-071

Agenda No. 3.C 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



# ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 09-071

TITLE: **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AN AMENDMENT TO THE MORRIS CANAL REDEVELOPMENT PLAN**

**WHEREAS**, the Municipal Council of the City of Jersey City last amended the Morris Canal Redevelopment Plan on January 28, 2009; and

**WHEREAS**, this amendment encourages adaptive reuse of industrial buildings by permitting additional stories, regulates residential yard setbacks and height, and permits ground floor residential uses; and

**WHEREAS**, the Planning Board of Jersey City has reviewed said amendment and voted unanimously to recommend its adoption to the Municipal Council at their meeting of May 19, 2009; and

**WHEREAS**, the recommended amendment to the Morris Canal Redevelopment Plan is attached hereto and made a part hereof, which amendment is available for public inspection in the Office of the City Clerk, City Hall, Jersey City, NJ;

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Jersey City that the above referenced amendment to the Morris Canal Redevelopment Plan be, and hereby is, adopted.

**BE IT FURTHER ORDAINED THAT:**

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the Jersey City Code as though codified and set forth fully herein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- C. This ordinance shall take effect at the time and in the manner as provided by law.
- D. The City Clerk and the Corporation Council be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible repealers of existing provisions.

Robert D. Cotter, AICP, PP, Director  
Division of City Planning

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Corporation Counsel

APPROVED:

APPROVED:   
Business Administrator

Certification Required

Not Required

**ORDINANCE FACT SHEET**

**1. Full Title of Ordinance:**

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AN AMENDMENT TO THE MORRIS CANAL REDEVELOPMENT PLAN**

**2. Name and Title of Person Initiating the Ordinance, etc.:**

Carl Czaplicki, Director, Department of Housing, Economic Development and Commerce

**3. Concise Description of the Program, Project or Plan Proposed in the Ordinance:**

This ordinance amends the Morris Canal Redevelopment Plan. The amendment will encourage the adaptive reuse of industrial buildings by permitting additional stories, regulates residential yard setbacks and height, and permits ground floor residential uses on the commercial main street for easier compliance with the Americans with Disabilities Act (ADA).

**4. Reasons for the Proposed Project:**

To allow for the development and reuse of vacant industrial buildings, to protect the light, air, and open space in existing residential sub-districts, and allow of easier conformity with the ADA act.

**5. Anticipated Benefits to the Community:**

Protection of light, air, and open space in neighborhoods, stimulus of adaptive reuse of vacant industrial buildings.

**6. Cost of Proposed Program, Project, etc.:** \$0.00, all work was done in house

**7. Date Proposed Program or Project will commence:** Upon Adoption

**8. Anticipated Completion Date:** N/A

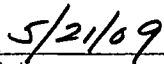
**9. Person Responsible for Coordinating Proposed Program, Project, etc.:**

Robert D. Cotter, Director, City Planning	547-5050
Kristin J. Russell, City Planning	547-5010
Jeffrey Wenger, City Planning	547-5010


**10. Additional Comments:** None

I Certify that all the Facts Presented Herein are Accurate.

  
Division Director

  
Date

  
Department Director Signature

  
Date

## **Summary**

### **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AN AMENDMENT TO THE MORRIS CANAL REDEVELOPMENT PLAN**

This ordinance amends the Morris Canal Redevelopment Plan. The amendment will encourage the adaptive reuse of industrial buildings by allowing additional stories, will regulate residential yard setbacks and building height, and will permit ground floor residential units in the commercial district to ease conformity with the Americans with Disabilities Act.

City Clerk File No. Ord. 09-072

Agenda No. 3.D 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 09-072

**TITLE: AN ORDINANCE GRANTING PERMISSION TO 134 BAY STREET, LLC AND 126-142 MORGAN STREET URBAN RENEWAL, LLC, THEIR SUCCESSORS AND ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS IN THE PROVOST STREET RIGHT OF WAY BETWEEN MORGAN STREET AND BAY STREET ADJACENT TO THE PROPERTY LOCATED AT 10 PROVOST STREET, 143 BAY STREET, AND 332-350 MARIN BOULEVARD, JERSEY CITY, NEW JERSEY, ALSO KNOWN ON THE TAX MAPS OF THE CITY OF JERSEY CITY AS BLOCK 140, LOT 1 AND BLOCK 171 IN ITS ENTIRETY.**

WHEREAS, 134 Bay Street, LLC and 126-142 Morgan Street Urban Renewal, LLC ("Petitioners"), having offices located at 33-41 Newark Street, Hoboken, NJ 07030, are the owners of the property located at 10 Provost Street, 143 Bay Street, and 332-350 Marin Boulevard, Jersey City, and known as Block 140, Lot 1 and Block 171 in its entirety on the current tax maps of the City of Jersey City; and

*R.R.  
5-27-09*

WHEREAS, pursuant to a Jersey City Planning Board Resolution for Preliminary Major Site Plan Approval with deviations, Case #P08-114, Petitioners were granted approval to develop a mixed-use project containing 925 residential units, consisting of 881 traditional residential units, 12 work/live units (including 1 artist-in-residence unit), and 32 workforce housing units, approximately 44,939 square feet of retail space, an approximately 23,663 square foot performing arts theater (inclusive of art exhibition space), approximately 16,824 square feet of arts-related space, an approximately 26,000 square foot public plaza, and 917 parking spaces, which includes 30 tandem parking spaces ("Project") at 10 Provost Street, 332-350 Marin Boulevard, 143 Bay Street, and 352-358 Marin Boulevard, Jersey City, New Jersey, also known on the Jersey City Tax Maps as Blocks 140 and 171 in their entirety, and Block 172, Lots A, B, C, and D (collectively the "Property"), which is located within the Arts Theater Residence Overlay Zone of the Powerhouse Arts District Redevelopment Plan; and

WHEREAS, as part of the Preliminary Site Plan Approval, the Petitioners must construct a public plaza, totaling approximately 26,184 square feet, which shall consist of approximately 14,117 square feet of Block 140, Lot 1 and approximately 12,067 square feet of the Provost

Street right of way, between Morgan Street and Bay Street; and

**WHEREAS**, the 12,067 square foot area of the Provost Street right of way shall be improved insofar as the existing cobblestone within the right of way shall be removed, repaired or resurfaced, and replaced, as needed, to promote safety for the typical pedestrian, and the existing rails located within the same area of the Provost Street right of way shall remain, all of which is more particularly depicted and described in the Franchise Plan, Exhibit A, Site Plan, Exhibit B and Metes and Bounds Descriptions, Exhibit C, attached hereto; and.

**WHEREAS**, as part of the Preliminary Site Plan Approval, upon completion of the construction of the Project by the Petitioners, the entire 26,184 square foot plaza shall be dedicated to the City, with a maintenance easement reserved for the Petitioners for the stormwater detention system located beneath the property located at Block 140, Lot 1; and

**WHEREAS**, as part of the Preliminary Site Plan Approval, the Petitioners must construct a stormwater detention system approximately two (2) feet below the surface of the land located on Block 140, Lot 1; and

**WHEREAS**, the stormwater detention system will require a 16- inch pipe to be located approximately two (2.0) feet below the surface of the Provost Street right of way to connect the system with the rest of the development located on Block 171, all of which is more particularly depicted and described in the Franchise Plan, Exhibit A, Site Plan, Exhibit B and Metes and Bounds Descriptions, Exhibit C, attached hereto; and

**WHEREAS**, as part of the Preliminary Site Plan Approval, the Petitioners must construct a stairway entrance to the required performing arts theater to be located on Block 171 that minimally extends onto the surface of the Provost Street right of way, as more particularly depicted and described in the Franchise Plan, Exhibit A, Site Plan, Exhibit B and Metes and Bounds Descriptions, Exhibit C, attached hereto; and

**WHEREAS**, the Petitioner was required to file this Petition for a Franchise Ordinance pursuant to the requirements of the Arts Theater Residence Overlay Zone of the Powerhouse Arts District Redevelopment Plan, and in accordance with the comments of the Jersey City Division of Engineering, the resolution of which comments are a condition of the Preliminary Site Plan Approval; and

**WHEREAS**, the franchise for the stairway entrance and underground stormwater piping within the Provost Street right of way shall be in effect for ninety-nine (99) years from the date upon which Final Site Plan Approval for the Project is granted by the Jersey City Planning Board, and the franchise to use Provost Street to construct the public plaza, restore the façade of

the A & P Annex building, protect the existing cobblestone, and to make improvements to the existing cobblestone within the Provost Street right of way shall be in effect only so long as required until construction of the Project is complete, but no longer than fifteen (15) years from the date upon which Final Site Plan Approval for the Project is granted by the Jersey City Planning Board; and

**WHEREAS**, although the Provost Street right of way between Morgan Street and Bay Street will be closed to vehicular traffic to enable the creation of the public plaza, there will be no negative impact or diminishment to the right-of-way for pedestrian use as the contemplated improvements are minimally invasive to the right of way area or are located beneath the surface of the right of way; and

**WHEREAS**, the Petitioners have filed a petition for relief and represented to the Municipal Council of the City of Jersey City that the passage of this Ordinance is in the best interests of the City of Jersey City and essential for the construction of the development; and

**WHEREAS**, after due notice was given in accordance with law, a public hearing was held on the Petition filed by Petitioners to grant permission to use Provost Street between Bay Street and Morgan Street for the following purposes:

1. The construction of the public plaza, restoration of the façade of the A & P Annex building, the protection of the existing cobblestone, and the removal, repair and/or resurfacing, and replacement of the cobblestones located within the Provost Street right of way between Morgan Street and Bay Street.
2. The construction and maintenance of a stairway that is necessary to transition the public plaza to the entryway to the performing arts theater.
3. The installation and maintenance of a 16-inch storm water pipe to be located approximately two (2.0) feet below the surface, extending from the stormwater detention system below the land on Block 140, Lot 1 into the subsurface of the Provost Street right of way and connecting to the required development on Block 171.
4. All costs associated with these improvements will be incurred by the Petitioner, and there being no objections thereto.

**WHEREAS**, the Jersey City Engineering Department has required that the Petitioner obtain a franchise ordinance from the City Council of the City of Jersey City in order to construct the private improvements within the right of way, as contained within the Preliminary Site Plan Approval for the Project; and

**WHEREAS**, a franchise ordinance is required to permit the construction of the private improvements within the public right-of-way; and

**WHEREAS**, by reason of the character of the development of the area within which this property is situated, the said improvements will enhance the property's ability to function as an cultural and arts entertainment center and public plaza, to manage storm water, and to greatly benefit Jersey City and the surrounding neighborhood; and

**WHEREAS**, the public interest will be served by said improvements, which will be of great benefit to the citizens of Jersey City and Hudson County and the rights of the public will not be injuriously or adversely affected by the requested relief;

**NOW, THEREFORE, BE IT ORDAINED**, by the Municipal Council of the City of Jersey City, that:

**SECTION I.** Permission be, and is hereby granted to 134 Bay Street, LLC and 126-142 Morgan Street Urban Renewal, LLC, their successors and assigns, for a portion of lands located within the public right of way adjacent to 10 Provost Street, 143 Bay Street, and 332-350 Marin Boulevard, Jersey City, and known as Block 140, Lot 1, and Block 171 in its entirety on the current tax maps of the City of Jersey City, said areas being more particularly described as follows and on the Franchise Plan, Site Plan and Metes and Bounds descriptions attached hereto as Exhibit A, Exhibit B and Exhibit C respectively to be used for the following purposes.

1. The construction of the public plaza, restoration of the façade of the A & P Annex building, the protection of the existing cobblestone, and the removal, repair and/or resurfacing, and replacement of the cobblestones located within the Provost Street right of way between Morgan Street and Bay Street.
2. The construction and maintenance of a stairway that is necessary to transition the public plaza to the entryway to the performing arts theater.
3. The installation and maintenance of a 16-inch storm water detention pipe to be located approximately two (2.0) feet below the surface, extending from the stormwater detention system below the land on Block 140, Lot 1 into the subsurface of the Provost Street right of way and connecting to the required development on Block 171.
4. There will remain sufficient area in the right-of-way for typical pedestrian use.
5. The required improvements will be constructed consistent with the plans approved by the Jersey City Planning Board, the Jersey City Department of Engineering, and the Jersey City Municipal Utilities Authority.

6. All costs associated with these improvements will be incurred by the Petitioners.
7. The required improvements are necessary to construct the proposed development consistent with the development approvals and will benefit the Petitioners' property, the surrounding neighborhood, and greater Jersey City.

**SECTION II.** All the work herein authorized shall be done under the supervision of the proper department or departments of the City of Jersey City. Further, all the work herein authorized shall comply with any applicable State of New Jersey Uniform Construction Code requirements. The construction plans shall be submitted to the City Engineer for his review and comments prior to the start of construction. After construction there shall remain no damage to the sidewalk or roadway or interference with the free and safe flow of pedestrian traffic. 134 Bay Street, LLC and 126-142 Morgan Street Urban Renewal, LLC, and their successors and assigns, shall construct, operate and maintain all improvements installed by them for the entire term of this Franchise at no cost or inconvenience to the City.

**SECTION III.** The franchise granted in this Ordinance for the stairway entrance and underground stormwater piping within the Provost Street right of way shall remain in full force and effect for a period of ninety-nine (99) years from the date that Final Site Plan Approval is granted by the Jersey City Planning Board for the Project, and the franchise granted in this Ordinance for the construction of the public plaza, restoration of the façade of the A & P Annex building, protection of the existing cobblestone, and the removal, repair, and/or resurfacing and replacement of the improvements to the existing cobblestone within the Provost Street right of way shall be in effect only so long as required until construction of the Project is complete, but no longer than fifteen (15) years from the date upon which Final Site Plan Approval for the Project is granted by the Jersey City Planning Board. This Ordinance shall take effect upon final passage and publication according to law. In the event that the Municipal Council determines that this Ordinance must be canceled in whole or in part because of a public purpose, the City reserves the right to cancel this Ordinance or any part thereof by giving written notice to the Petitioners one year prior to the date of cancellation.

**SECTION IV.** All costs and expenses incident to the introduction, passage and publication of this Ordinance shall be borne and paid by said 134 Bay Street, LLC and 126-142 Morgan Street Urban Renewal, LLC.

**SECTION V.** In accepting the privileges of this Ordinance and the installation, maintenance, and use hereby authorized, upon the grant of Final Site Plan Approval for the Project by the Jersey City Planning Board, 134 Bay Street, LLC and 126-142 Morgan Street

Urban Renewal, LLC, their successors and assigns hereby agree to assume full, complete and undivided responsibility for any and all injury or damage to persons or property by reason of said installation, maintenance and use, and to indemnify and hold the City of Jersey City harmless from all injury or damage to persons or property by reason of such installation, maintenance and use (except such injury or damage which is caused by the negligence or misconduct of the City or its officers, employees or agents) for the term of this Ordinance. Upon the grant of Final Site Plan Approval for the Project by the Jersey City Planning Board, 134 Bay Street, LLC and 126-142 Morgan Street Urban Renewal, LLC, their successors and assigns, shall maintain in effect, during the term of this franchise, liability insurance naming the City of Jersey City, its officers and employees as additional insured, covering the use and occupancy of the public property subject to this franchise. A certificate of insurance, in the amount of \$1,000,000.00 in a form deemed acceptable by the City's Risk Manager, shall be delivered to the Risk Manager before use or occupancy of the premises subject to this Franchise Ordinance.

**SECTION VI.** This Ordinance shall not become effective unless an acceptance hereof in writing is filed by the Petitioners with the City Clerk. In the event, that the Petitioners shall not file with the City Clerk their acceptance in writing of the provisions of this Ordinance within 30 days after receiving notice of its passage, this Ordinance shall become void and be of no effect.

**SECTION VII.** Only with prior written consent and approval by the City Council of the City of Jersey City, which consent and approval shall not be unreasonably withheld, shall Petitioners have the right to assign or otherwise transfer their rights under this Franchise Ordinance.

**SECTION VIII.** An easement for the duration of this Ordinance is reserved for the benefit of the City of Jersey City and all public utility companies including any cable television company as defined in the "Cable Television Act", P.L. 1972, c. 186 (c. 48:5A-1 et seq.) for the purpose of ingress and egress over and upon the area subject to this Franchise Ordinance in order to maintain, repair or replace existing utility facilities including water lines, sewer lines, gas lines and telephone, electrical and cable television wires and poles which may be located either beneath or above the surface of the area subject to this Franchise Ordinance.

**SECTION IX.** For the rights and privileges herein granted, said beneficiaries hereunder, their successors and assigns, shall pay annually to the City of Jersey City the sum of One Dollar (\$1.00), which payment shall be made annually on the 1st day of July next succeeding the time when this Ordinance shall become effective and on each first day of

July thereafter until the termination of this Ordinance.

**SECTION X.** A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

B. This Ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this Ordinance certified and incorporated in the official copies of the Jersey City Code.

C. This Ordinance shall take effect at the time and in the manner as provided by law.

D. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code, in order to avoid confusion and possible accidental repeals of existing provisions.

5/27/09

APPROVED AS TO LEGAL FORM



Corporation Counsel

APPROVED:



APPROVED:

Business Administrator

Certification Required

Not Required

## PETITION

**TO: THE HONORABLE, THE MAYOR AND MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY:**

Your Petitioners, 134 Bay Street, LLC and 126-142 Morgan Street Urban Renewal, LLC having offices located at 33-41 Newark Street, Hoboken, NJ 07030, respectfully say that:

1. Petitioners are the owners of the property located at 10 Provost Street, 143 Bay Street, 332-350 Marin Boulevard, and 352-358 Marin Boulevard, Jersey City, and known as Block 140, Lot 1, Block 171 in its entirety, and Block 172, Lots A-D on the current tax maps of the City of Jersey City (the "Property"). Petitioners were granted Preliminary Site Plan Approval by the Jersey City Planning Board to develop a mixed-use project containing 925 residential units, consisting of 881 traditional residential units, 12 work/live units (including 1 artist-in-residence unit), and 32 workforce housing units, approximately 44,939 square feet of retail space, an approximately 23,663 square foot performing arts theater (inclusive of art exhibition space), approximately 16,824 square feet of arts-related space, an approximately 26,000 square foot public plaza, and 917 parking spaces, which includes 30 tandem parking spaces ("Project") on the Property, which is located within the Arts Theater Residence Overlay Zone of the Powerhouse Arts District Redevelopment Plan.

2. Petitioners propose to obtain permission from the City to use the Provost Street right-of-way between Bay Street and Morgan Street for the following purposes:

- A. The construction of the public plaza, the restoration of the façade of the A & P Annex building, the protection of the existing cobblestone and the removal, repair and/or resurfacing, and replacement of the cobblestones located within the Provost Street right of way between Morgan Street and Bay Street.

- B. Construction and maintenance of a stairway that is necessary to transition the public plaza to the entryway to the performing arts theater.
- C. The installation and maintenance of a 16-inch storm water pipe to be located approximately two (2.0) feet below the surface, extending from the stormwater detention system below the land on Block 140, Lot 1 into the subsurface of the Provost Street right of way and connecting to the required development on Block 171.
- D. All costs associated with these improvements will be incurred by the Petitioners, and there being no objections thereto.

3. Petitioners have presented the proposed improvements to the Jersey City Engineering Department, which has conditioned its approval of the proposed improvements upon the Petitioner being granted a franchise ordinance by the City Council of the City of Jersey City.

4. The contemplated improvements are necessary to construct the proposed development consistent with the development approvals, and will greatly benefit the Petitioners' property, the surrounding area and neighborhood, and greater Jersey City.

**WHEREFORE**, your Petitioners respectfully pray for themselves, their successors and assigns, for the enactment of a Franchise Ordinance to allow them to make private improvements within and under the public right-of-way of Provost Street, all as more particularly shown on the plans annexed hereto and made a part hereof.

By:

\_\_\_\_\_  
o/b/o 134 Bay Street, LLC and 126-142 Morgan  
Street Urban Renewal, LLC  
James C. McCann, Attorney for the Petitioners







PENNONI ASSOCIATES INC.  
CONSULTING ENGINEERS

**Description of  
Provost Street Improvement Franchise Area  
Between City Blocks 140 & 171  
City of Jersey City, Hudson County, New Jersey  
Project No. Toll0803  
April 22, 2009**

Beginning at a point, said point being the intersection of the easterly line of Provost Street (50' r.o.w.) and the northerly line of Morgan Street (60' r.o.w.) and running:

Thence, North 83°44'23" West, a distance of 60.00' to the intersection of the westerly line of Provost Street and the northerly line of Morgan Street.

Thence, North 06°10'07" East, a distance of 200.00' along the westerly line of Provost Street to the intersection of the westerly line of Provost Street and the southerly line of Bay Street (60' r.o.w.);

Thence, South 83°44'43" East, a distance of 60.32' to the intersection of the southerly line of Bay Street and the easterly line of Provost Street;

Thence, South 06°15'37" West, a distance of 200.01' along the easterly line of Provost Street to the point and place of beginning.

Containing 12,032 Square Feet = 0.28 Acres

Bearings are N.A.D. 83 in accordance with a drawing entitled "ALTA-ACSM LAND TITLE SURVEY, 134 BAY STREET" prepared by Macdel Engineering, P.C. dated January 18, 2006, last revised September 25, 2008 and signed by Robert F. Hogan, L.S. #34860 and also in accordance with a drawing entitled "ALTA-ACSM LAND TITLE SURVEY 126-142 MORGAN STREET" prepared by Macdel Engineering, P.C. dated April 4, 2005, last revised September 25, 2008 and signed by Robert F. Hogan, L.S. #34860.

This description was prepared in accordance with a "FRANCHISE PLAN", Block 140, Lots A1, B1; Block 171, Lots 1, 9A, 11, 119, 121, 134, 135, 136, 137, 138, 142, 143, A1, C1, D1, E1, F1, G1, H, J, K, L, M, N, O, P, R, S, T, U, V, V1; Block 172, Lots A, B, C, D". City Of Jersey City, Hudson County, New Jersey. Dated April 22, 2009. Prepared By Pennoni Associates, Inc.

**DAVID H. SMITH, P.L.S.  
PROFESSIONAL LAND SURVEYOR  
NEW JERSEY LICENSE No. 24GS02271800**

*David H. Smith*

*4/23/2009*

DATE



PENNONI ASSOCIATES INC.  
CONSULTING ENGINEERS

**Description of  
Proposed Stair Franchise Area In the  
Provost Street Improvement Franchise Area  
City Block 171  
City of Jersey City, Hudson County, New Jersey  
Project No. Toll0803  
April 22, 2009**

Beginning at a point, said point being North 06°10'07" East, a distance of 2.83' from the intersection of the westerly line of Provost Street (50' r.o.w.) and the northerly line of Morgan Street (60' r.o.w.) and running:

Thence, North 06°10'07" East, a distance of 112.73' along the westerly line of Provost Street, to a point;

Thence, South 83°44'23" East, a distance of 10.35' to a point;

Thence, South 06°15'37" West, a distance of 112.73' to a point;

Thence, North 83°44'23" West, a distance of 10.17' to the point and place of beginning.

Containing 1,157 Square Feet

Bearings are N.A.D. 83 in accordance with a drawing entitled "ALTA-ACSM LAND TITLE SURVEY, 134 BAY STREET" prepared by Macdel Engineering, P.C. dated January 18, 2006, last revised September 25, 2008 and signed by Robert F. Hogan, L.S. #34860 and also in accordance with a drawing entitled "ALTA-ACSM LAND TITLE SURVEY 126-142 MORGAN STREET" prepared by Macdel Engineering, P.C. dated April 4, 2005, last revised September 25, 2008 and signed by Robert F. Hogan, L.S. #34860.

Location of Proposed Stair Franchise Area is based on "Preliminary Site Plan For Provost Square, Powerhouse Arts District Arts Theater Residence Overlay Zone. Block 140, Lots A1, B1; Block 171, Lots 1, 9A, 11, 119, 121, 134, 135, 136, 137, 138, 142, 143, A1, C1, D1, E1, F1, G1, H, J, K, L, M, N, O, P, R, S, T, U, V, V1; Block 172, Lots A, B, C, D". City Of Jersey City, Hudson County, New Jersey. Prepared By Pennoni Associates, Inc.

This description was prepared in accordance with a "FRANCHISE PLAN", Block 140, Lots A1, B1; Block 171, Lots 1, 9A, 11, 119, 121, 134, 135, 136, 137, 138, 142, 143, A1, C1, D1, E1, F1, G1, H, J, K, L, M, N, O, P, R, S, T, U, V, V1; Block 172, Lots A, B, C, D". City Of Jersey City, Hudson County, New Jersey. Dated April 22, 2009. Prepared By Pennoni Associates, Inc.

DAVID H. SMITH, P.L.S.  
PROFESSIONAL LAND SURVEYOR  
NEW JERSEY LICENSE No. 24GS02271800

4/23/2009

DATE



PENNONI ASSOCIATES INC.  
CONSULTING ENGINEERS

**Description of  
Proposed Storm Pipe Franchise Area In the  
Provost Street Improvement Franchise Area  
Between City Blocks 140 & 171  
City of Jersey City, Hudson County, New Jersey  
Project No. Toll0803  
April 22, 2009**

Beginning at a point, said point being North 06°10'07" East, a distance of 123.27' from the intersection of the westerly line of Provost Street (50' r.o.w.) and the northerly line of Morgan Street (60' r.o.w.) and running:

Thence, North 06°10'07" East, a distance of 1.46' along the westerly line of Provost Street, to a point;

Thence, South 78°37'00" East, a distance of 60.44' to a point on the easterly line of Provost Street;

Thence, South 06°15'37" West, a distance of 1.46' along the easterly line of Provost Street, to a point;

Thence, North 78°37'00" West, a distance of 60.44' to the point and place of beginning.

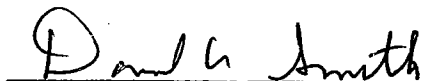
Containing 88 Square Feet

Bearings are N.A.D. 83 in accordance with a drawing entitled "ALTA-ACSM LAND TITLE SURVEY, 134 BAY STREET" prepared by Macdel Engineering, P.C. dated January 18, 2006, last revised September 25, 2008 and signed by Robert F. Hogan, L.S. #34860 and also in accordance with a drawing entitled "ALTA-ACSM LAND TITLE SURVEY 126-142 MORGAN STREET" prepared by Macdel Engineering, P.C. dated April 4, 2005, last revised September 25, 2008 and signed by Robert F. Hogan, L.S. #34860.

Location of Proposed Storm Pipe Franchise Area is based on "Preliminary Site Plan For Provost Square, Powerhouse Arts District Arts Theater Residence Overlay Zone. Block 140, Lots A1, B1; Block 171, Lots 1, 9A, 11, 119, 121, 134, 135, 136, 137, 138, 142, 143, A1, C1, D1, E1, F1, G1, H, J, K, L, M, N, O, P, R, S, T, U, V, V1; Block 172, Lots A, B, C, D". City Of Jersey City, Hudson County, New Jersey. Prepared By Pennoni Associates, Inc.

This description was prepared in accordance with a "FRANCHISE PLAN", Block 140, Lots A1, B1; Block 171, Lots 1, 9A, 11, 119, 121, 134, 135, 136, 137, 138, 142, 143, A1, C1, D1, E1, F1, G1, H, J, K, L, M, N, O, P, R, S, T, U, V, V1; Block 172, Lots A, B, C, D". City Of Jersey City, Hudson County, New Jersey. Dated April 22, 2009. Prepared By Pennoni Associates, Inc.

DAVID H. SMITH, P.L.S.  
PROFESSIONAL LAND SURVEYOR  
NEW JERSEY LICENSE No. 24GS02271800



4/23/2009  
DATE



# ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 09-073

TITLE: **AN ORDINANCE AUTHORIZING A LEASE AGREEMENT  
BETWEEN THE CITY OF JERSEY CITY AND VERIZON  
NEW JERSEY INC. FOR PROPERTY LOCATED AT  
71 MADISON AVENUE, JERSEY CITY, NEW JERSEY.**

**WHEREAS**, the City of Jersey City has a need for parking spaces for the Police and Fire Departments; and

**WHEREAS**, Verizon New Jersey Inc. is willing to lease premises at 71 Madison Avenue, Jersey City (Block 1938 Lot PL.A) consisting of 18,787.70 square feet, a total rental fee of \$9,600.00 per year or \$800.00 per month; and

**WHEREAS**, the lease will be for a term of five ( 5 ) years effective July 1, 2009 and terminating June 30, 2014; and

**WHEREAS**, pursuant to N.J.A.C. 50:30-5.5(e), the award of this lease agreement shall be subject to the availability and appropriation of sufficient funds in the Fiscal Year 2010 budget in account no. 01-201-31-432-304; and

**WHEREAS**, N.J.S.A. 40A:12-5 provides that a municipality may by ordinance authorize the leasing of real property or personal property; and

**WHEREAS**, this agreement is in the best interest of the City of Jersey City.

**NOW THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Jersey City that:

1. The Mayor or Business Administrator is authorized to execute a lease agreement with Verizon New Jersey Inc. For premises located at 71 Madison Avenue, Jersey City, New Jersey ( Block 1938 Lot PL.A ) consisting of 18,787.70 sq. ft., a total rent of \$9,600.00 per year or \$800.00 per month, for a term of five (5) years effective July 1, 2009 and terminating June 30, 2014.
2. The lease shall be in substantially the form attached subject to such modifications the Corporation Counsel or Business Administrator deems appropriate or necessary.
3. The lease funds will be made available in the 2010 fiscal year budget and in subsequent fiscal year budgets.
4. All ordinances and parts or ordinances inconsistent herewith are hereby repealed.
5. This Ordinance shall be a part of the Jersey City code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
6. This ordinance shall take effect at the time and in the manner as provided by law.
7. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing Code, in order to avoid confusion and possible accidental repealers of existing provisions.

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Corporation Counsel

APPROVED:   
Ann Marie Miller, Real Estate Manager

APPROVED:   
\_\_\_\_\_  
Business Administrator

Certification Required   
Not Required  3 8

## SECOND AMENDMENT OF LEASE

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009, between VERIZON NEW JERSEY INC., a New Jersey corporation, formerly known as Bell Atlantic - New Jersey Inc. and New Jersey Bell Telephone Company, having an office at 540 Broad Street, Newark, New Jersey 07012 ( " Lessor" ) and CITY OF JERSEY CITY, a municipal corporation of the State of New Jersey, having and office at 280 Grove Street, Jersey City, New Jersey 07302 ( " Lessee" ).

### **RECITALS:**

A. Lessor and Lessee are parties to a lease dated July 1, 1999 ( the " Lease" ), pursuant to which Landlord leases to Lessee and Lessor hires from Lessor approximately a 18,788 square foot paved parking lot located at 71 Madison Street, City of Jersey City, Hudson County, New Jersey as is more particularly described as Parking Area 2 on Schedule A attached to the Lease ( the " Premises" ).

B. Lessee has served notice dated March 13, 2009, exercising its second right to renew the term of the Lease for an additional five (5) year period.

C. The Lessor named in the lease has changed its name to Verizon New Jersey Inc.

D. The parties desire to amend the Lease in the manner hereinafter set forth.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The term of the Lease is hereby extended beginning on July 1, 2009, and ending on June 30, 2014 ( the "Extension Term " ), upon all of the terms, covenants and conditions of the Lease except as otherwise provided in this Agreement.

2. Annual rent during the Extension Term shall be \$9,600.00, payable in equal monthly installments in advance of \$800.00 per month on the first day of each month, during the Extension Term.

3. Amending Article 16 of the Lease, the address for notices and rent payments from Lessee to Lessor under the Lease is hereby changed to : Verizon Portfolio Management, P.O. Box 110, Mail Code: FLG1-300, Tampa, Florida 33601-0110, Attn: Lease Administration. [ Verizon Real Estate, 1907 US Highway 301 North, Building C., Mail Code FLG1-300, Tampa, Florida 33619, Attn: Lease Administration] .

4. Notwithstanding anything to the contrary contained in the Lease, each party shall look first to any insurance in its favor before making any claim against the other party for recovery for loss or damage resulting from fire or other casualty, and to the extent permitted

by law Lessor and Lessee each hereby releases and waives all right of recovery against the other or anyone claiming through or under each of them by way of subrogation or otherwise. Each party shall obtain a waiver of subrogation from its insurer with respect to the preceding sentence.

5. Lessee, at Lessee's sole cost and expense, upon termination of the Lease, shall remove its vehicles, equipment and personal property ( if any ) and restore the Premises to the condition required under the Lease and repair any damage resulting therefrom. If Lessee fails to surrender the Premises on the termination date in the foregoing condition, Lessee shall be deemed to be remaining in possession of the Premises and Lessor may, at its option, require Lessee to pay rent at 200 % of the then current rent, until such time as the Premises is surrendered in the condition required hereunder.

6. Lessee shall not assign or transfer the Lease, or sublet or permit the use or occupancy of the Premises or any part thereof by any party other than Tenant.

7. Lessor and Lessee represent and warrant to each other that they have not negotiated with any broker in connection with this Agreement. Lessor and Lessee agree that should any claim be made against the other for a broker's commission, finder's fee or similar compensation by reason of the acts of such party, the party upon whose acts such claim is predicated shall indemnify and hold the other party harmless from all losses, costs, damages, claims, liabilities and expenses in connection therewith ( including, but not limited to, reasonable legal fees and the cost of enforcing this indemnity).

8. Each of the parties hereto represents and warrants to the other that the person executing this Agreement on behalf of such party has the full right, power and authority to enter into and execute this Agreement on such party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

9. All prior understanding and agreements between the parties with respect to the subject matter of this Agreement are merged within this Agreement, which alone fully and completely sets forth the understanding of the parties with respect thereto. This Agreement may not be changed or modified nor may any of its provisions be waived orally or in any manner other than by a writing signed by the party against whom enforcement of the change, modification or waiver is sought.

10. Except as herein provided, the Lease and all of its terms, covenants and conditions remain in full force and effect.

11. The terms, covenants and conditions contained herein are binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors and assigns.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date first above written.

**WITNESS:**

\_\_\_\_\_

**LESSOR:**

**VERIZON NEW JERSEY INC.**

**BY:** \_\_\_\_\_

**WITNESS:**

\_\_\_\_\_

**LESSEE:**

**CITY OF JERSEY CITY**

\_\_\_\_\_  
Brian O'Reilly  
Business Administrator

City Clerk File No. Ord. 09-074

Agenda No. 3.F 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



# ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 09-074

**TITLE: ORDINANCE APPROVING A 20 YEAR TAX EXEMPTION FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT TO BE CONSTRUCTED BY HUDSON PALISADES URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.**

**THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY DOES ORDAIN:**

**WHEREAS**, Hudson Palisades Urban Renewal, LLC, an urban renewal entity, formed and 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. (Entity); and

**WHEREAS**, the Entity owns certain property known as Block 733, Lot A.2, on the City's Official Tax map, consisting of approximately .20 acres, and more commonly known by the street address of 325 Palisade Avenue, and more specifically described by metes and bounds, in the application (Property); and

**WHEREAS**, the Property is located within the 325 Palisade Avenue Redevelopment Plan Area as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g); and

**WHEREAS**, the Entity has applied for a 20 year long term tax exemption to rehabilitate and remodel an existing three-story building, to contain approximately twenty-one (21) residential rental units and 2,315 square feet of rented parking for the use of the residents only for approximately fourteen (14) cars; and

**WHEREAS**, Hudson Palisades Urban Renewal, LLC, has agreed to:

1. pay the greater of (i) the Minimum Annual Service Charge or (ii) 10% of the Annual Gross Revenue for the first ten (10) years, which sum is estimated to be \$39,290; and 12% of the Annual Gross Revenue for the following ten (10) years, which sum is estimated to be \$47,148, and which shall be subject to statutory staged increases over the term of the tax exemption; and
2. pay an annual sum equal to 2% of each prior year's Annual Service Charge as an Administrative Fee; and
3. provide employment and other economic opportunities for City residents and businesses; and
4. pay to the City, for remittance to Hudson County, an amount equal to 5% of the Annual Service Charge upon receipt of that charge; and
5. pay the sum of \$34,973 to the City's Affordable Housing Trust Fund; and

**WHEREAS**, the City hereby determines that the relative benefits of the project outweigh the cost of the tax exemption, for the following reasons:

**ORDINANCE APPROVING A 20 YEAR TAX EXEMPTION FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT TO BE CONSTRUCTED BY HUDSON PALISADES URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.**

1. the current real estate taxes generate revenue of only \$33,312 whereas, the Annual Service Charge as estimated, will initially generate revenue of more than \$39,290 to the City and an additional sum of approximately \$1,965 to Hudson County;
2. it is expected that the Project will create approximately 10 jobs during construction and 3 new permanent jobs;
3. the Project will stabilize and contribute to the economic growth of businesses in the surrounding area;
4. the Project will further the overall redevelopment objectives of the 325 Palisade Avenue Redevelopment Plan;
5. the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

**WHEREAS**, the City hereby determines that the tax exemption is important in obtaining development of the project and influencing the locational decisions of probable occupants for the following reasons:

1. the relative stability and predictability of the Annual Service Charges will make the Project more attractive to investors needed to finance the Project;
2. the relative stability and predictability of the Annual Service Charges will allow the owner to stabilize its operating budget, allowing a high level of maintenance to the building over the life of the Project, which will attract tenants to the Project and insure the likelihood of the success of the Project; and

**WHEREAS**, Hudson Palisades Urban Renewal, LLC, has initially complied with Executive Order 2002-005 concerning "Disclosure of Lobbyist Representative Status" by filing an appropriate letter in the Office of the City Clerk.

**NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that:**

A. The application of Hudson Palisades Urban Renewal, LLC, an urban renewal company, formed and 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. a copy of which is on file in the office of the City Clerk, for Block 733, Lot A.2, more commonly known by the street address of 325 Palisade Avenue, more specifically described by metes and bounds in the application is hereby approved.

B. The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement and a Project Employment and Contracting Agreement, provided that the prepayment and contribution agreement relating to this Property authorized by separate Resolution has been fully executed. The Financial Agreement shall include at a minimum the following terms and conditions:

1. Term: the earlier of 25 years from the adoption of the within Ordinance or 20 years from the date the project is Substantially Complete;
2. Annual Service Charge: each year the greater of:

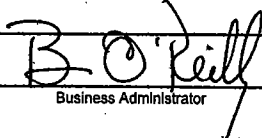
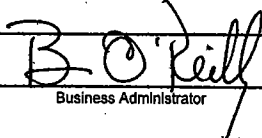
**ORDINANCE APPROVING A 20 YEAR TAX EXEMPTION FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT TO BE CONSTRUCTED BY HUDSON PALISADES URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.**

- (a) the Minimum Annual Service Charge equal to \$39,290 upon Project Completion, whether or not the Project is occupied; or
  - (b) 10% of the Annual Gross Revenue for the first ten (10) years, which sum is estimated to be \$39,290; and 12% of the Annual Gross Revenue for the following ten (10) years, which sum is estimated to be \$47,148, and which shall be subject to statutory staged increases over the term of the tax exemption.
3. Administrative Fee: 2% of the prior year's Annual Service Charge;
  4. County Payment: 5% of the Annual Service Charge to the City for remittance by the City to Hudson County;
  5. Project: A rehabilitated and remodeled multiple dwelling, market rate residential rental project, which will consist of a three (3) story building with approximately twenty-one (21) residential rental units and 2,315 square feet of rented parking for the use of the residents only for approximately fourteen (14) cars;
  6. Affordable Housing Trust Fund: \$1,500 per unit or \$31,500 and \$1.50 per square foot x 2,315 square feet or \$3,473, for a total of \$34,973;
  7. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses.
- C. The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Tax Assessor and Director of the Division of Local Government Services.
- D. The application is on file with the office of the City Clerk. The Financial Agreement and Project Employment and Contracting Agreement shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.
- E. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- F. This ordinance shall be part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- G. This ordinance shall take effect at the time and in the manner provided by law.
- H. The City Clerk and Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

**NOTE:** All material is new; therefore underlining has been omitted. For purposes of advertising only, new matter is indicated by **bold face** and repealed matter by *italic*.

JM/he  
5/27/09

APPROVED AS TO LEGAL FORM  
  
Corporation Counsel

APPROVED:   
APPROVED:   
Business Administrator

Certification Required   
Not Required

Rev. 5-27-09  
Long Term Tax Exemption  
N.J.S.A. 40A:20-1, et seq.  
(Market Rate Residential Rental)

Re: Hudson Palisade Urban Renewal, LLC  
Approximately .20 Acres  
Block 733, Lot A.2  
325 Palisade Avenue Redevelopment Plan

**PREAMBLE**

**THIS FINANCIAL AGREEMENT**, [Agreement] is made the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by and between **HUDSON PALISADES URBAN RENEWAL, LLC**, an urban renewal entity formed and 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., having its principal office at c/o Anthony T. Colasanti, Esq., 4 York Avenue, West Caldwell, NJ 07006 [Entity], and the **CITY OF JERSEY CITY**, a Municipal Corporation of the State of New Jersey, having its principal office at 280 Grove Street, Jersey City, New Jersey 07302 [City].

**RECITALS**

**WITNESSETH:**

**WHEREAS**, the Entity is the Owner of certain property designated as Block 733, Lot A.2, more commonly known by the street address of 325 Palisade Avenue, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement; and

**WHEREAS**, this property is located within the boundaries of the 325 Palisade Avenue Redevelopment Plan Area; and

**WHEREAS**, the Entity plans to rehabilitate and remodel an existing three-story building, to contain approximately twenty-one (21) residential rental units and 2,315 square feet of rented parking for the use of the residents only for approximately fourteen (14) cars, [Project]; and

**WHEREAS**, on March 26, 2009, the Entity filed an Application with the City for a long term tax exemption for the Project; and

**WHEREAS**, the City made the following findings:

A. Relative Benefits of the Project when compared to the costs:

1. the current real estate tax generates revenue of only \$33,312, whereas, the Annual Service Charge as estimated, and will generate revenue to the City of approximately \$39,290.40;
2. the Entity shall pay the City the sum of \$34,973, as an affordable housing contribution pursuant to Ordinance 03-112;
3. it is expected that the Project will create approximately ten (10) jobs during construction and three (3) new permanent jobs;
4. the project should stabilize and contribute to the economic growth of existing local business and to the creation of new business, which cater to the new residents;
5. the Project will further the redevelopment objectives of the 325 Palisade Avenue Redevelopment Plan;
6. the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

B. Assessment of the Importance of the Tax Exemption in obtaining development of the project and influencing the locational decisions of probable occupants:

1. the relative stability and predictability of the annual service charges will make the Project more attractive to investors and lenders needed to finance the Project; and
2. the relative stability and predictability of the service charges will allow the owner to stabilize its operating budget, allowing a high level of maintenance to the building over the life of the Project, which will insure the likelihood of the success of the Project and insure that it will have a positive impact on the surrounding area; and

**WHEREAS**, by the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 2009, the Municipal Council approved the above findings and the tax exemption application and authorized the execution of this Agreement.

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

**ARTICLE I - GENERAL PROVISIONS**

**Section 1.1 Governing Law**

This Agreement shall be governed by the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., Executive Order of the Mayor, 02-003, Ordinance 02-075, and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement. It being expressly understood and agreed that the City expressly relies upon the facts, data, and representations contained in the Application, attached hereto as Exhibit 3, in granting this tax exemption.

## **Section 1.2 General Definitions**

Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement, the following terms shall have the following meanings:

i. Allowable Net Profit- The amount arrived at by applying the Allowable Profit Rate to Total Project Cost pursuant to N.J.S.A. 40A:20-3(c).

ii. Allowable Profit Rate - The greater of 12% or the percentage per annum arrived at by adding 1.25% to the annual interest percentage rate payable on the Entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing, or if the financing is internal or undertaken by a related party, the Allowable Profit Rate shall be the greater of 12% or the percentage per annum arrived at by adding 1.25% per annum to the interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in Hudson County. The provisions of N.J.S.A. 40A:20-3(b) are incorporated herein by reference.

Gross Revenue based on the actual amount of such costs incurred.

iii. Annual Service Charge - The amount the Entity has agreed to pay the City for municipal services supplied to the Project, which sum is in lieu of any taxes on the Improvements, pursuant to N.J.S.A. 40A:20-12.

iv. Auditor's Report - A complete financial statement outlining the financial status of the Project (for a period of time as indicated by context), which shall also include a certification of Total Project Cost and clear computation of Net Profit. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles and shall contain at a

minimum the following: a balance sheet, a statement of income, a statement of retained earnings or changes in stockholders' equity, a statement of cash flows, descriptions of accounting policies, notes to financial statements and appropriate schedules and explanatory material results of operations, cash flows and any other items required by Law. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

v. Certificate of Occupancy - A document, whether temporary or permanent, issued by the City authorizing occupancy of a building, in whole or in part, pursuant to N.J.S.A. 52:27D-133.

vi. Debt Service - The amount required to make annual payments of principal and interest or the equivalent thereof on any construction mortgage, permanent mortgage or other financing including returns on institutional equity financing and market rate related party debt for the project for a period equal to the term of this agreement.

vii. Default - Shall be a breach of or the failure of the Entity to perform any obligation imposed upon the Entity by the terms of this Agreement, or under the Law, beyond any applicable grace or cure periods.

viii. Entity - The term Entity within this Agreement shall mean Hudson Palisades Urban Renewal, LLC, which Entity is formed and qualified pursuant to N.J.S.A. 40A:20-5. It shall also include any subsequent purchasers or successors in interest of the Project, provided they are formed and operate under the Law.

ix. Gross Revenue - Any and all revenue derived from or generated by the Project of whatever kind or amount, whether received as rent from any tenants or income or fees from third parties, including but not limited to fees or income paid or received for parking, laundry, health club user fees or other services (such as lease premiums for views, fireplaces, etc.). No deductions will be allowed for operating or maintenance costs, including, but not limited to gas, electric, water and sewer, other utilities, garbage removal and insurance charges, whether paid for by the landlord, tenant or a third party, except for customary operating expenses of commercial tenants such as utilities, insurance and taxes (including payments in lieu of taxes) which shall be deducted from

x. Improvements or Project - Any building, structure or fixture permanently affixed to the land and to be constructed and tax exempted under this Agreement.

xi. In Rem Tax Foreclosure or Tax Foreclosure - A summary proceeding by which the City may enforce a lien for taxes due and owing by tax sale, under N.J.S.A. 54:5-1 to 54:5-129 et seq.

xii. Land Taxes - The amount of taxes assessed on the value of land, on which the project is located and, if applicable, taxes on any pre-existing improvements. Land Taxes are not exempt; however, Land Taxes are applied as a credit against the Annual Service Charge.

xiii. Land Tax Payments - Payments made on the quarterly due dates, including approved grace periods if any, for Land Taxes as determined by the Tax Assessor and the Tax Collector.

xiv. Law - Law shall refer to the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1, et seq.; Executive Order of the Mayor 02-003, relating to long term tax exemption, as it may be amended and supplemented; Ordinance 02-075, and Ordinance \_\_\_\_\_ which authorized the execution of this Agreement.

xv. Lease Up Period - Shall begin on the date of the issuance of the first Certificate of Occupancy (whether permanent or temporary) for any floor or any portion thereof. During the Lease Up Period, the Entity shall pay the sum equal to the estimated Annual Service Charge divided by the number of Units divided by 12 for each Unit for each month after that Unit has received a Certificate of Occupancy, whether the floor is actually occupied or generated revenue. The payment shall begin on the 1<sup>st</sup> day of the month following the issuance of the Certificate of Occupancy for that Floor. The Lease Up Period for the Project expires twelve (12) months after the issuance of the first Certificate of Occupancy for any floor.

xvi. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the greater of:

(a) the amount of the total taxes levied against all real property in the area covered by the Project in the last full tax year in which the area was subject to taxation, or in the case of tax exempt property, the projected tax levy based upon the assessed value for the year in which the application is filed, which amount the parties agree is \$33,312; or

(b) the sum of \$39,290 per year, which sum will be prorated only in the years in which Substantial Completion occurs and this Agreement terminates.

The Minimum Annual Service Charge shall be paid in each year in which the Annual

Service Charge, calculated pursuant to N.J.S.A. 40A:20-12 or this Agreement, would be less than the Minimum Annual Service Charge.

xvii. Net Profit - The Gross Revenues of the Entity less all operating and non-operating expenses of the Entity, all determined in accordance with generally accepted accounting principles, but:

(1) there shall be included in expenses: (a) all Annual Service charges paid pursuant to N.J.S.A. 40A:20-12; (b) all payments to the City of excess profits pursuant to N.J.S.A. 40A:20-15 or N.J.S.A. 40A:20-16; (c) an annual amount sufficient to amortize (utilizing the straight line method-equal annual amounts) the Total Project Cost and all capital costs determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits over the term of this agreement; (d) all reasonable annual operating expenses of the Entity and any other entity whose revenue is included in the computation of excess profits including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies and payments into repair or maintenance reserve accounts; (e) all payments of rent including but not limited to ground rent by the Entity; (f) all debt service; and

(2) there shall not be included in expenses either depreciation or obsolescence, interest on debt, except interest which is part of debt service, income taxes or salaries, bonuses or other compensation paid, directly or indirectly to directors, officers and stockholders of the entity, or officers, partners or other persons holding a proprietary ownership interest in the entity.

xviii. Pronouns - He or it shall mean the masculine, feminine or neuter gender, the singular, as well as the plural, as context requires.

xix. Substantial Completion - The determination by the City that the Project, in whole or in part, is ready for the use intended, which ordinarily shall mean the date on which the Project receives, or is eligible to receive any Certificate of Occupancy for any portion of the Project.

xx. Termination - Any act or omission which by operation of the terms of this Financial Agreement shall cause the Entity to relinquish its tax exemption.

xxi. Total Project Cost - The total cost of constructing the Project through the date a

Certificate(s) of Occupancy is issued for the entire Project, which categories of cost are set forth in N.J.S.A. 40A:20-3(h). There shall be included in Total Project Cost the actual costs incurred by the Entity and certified by an independent and qualified architect or engineer, which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or Federal law and any extraordinary costs incurred including the cost of demolishing structures, relocation or removal of public utilities, cost of relocating displaced residents or buildings and the clearing of title. The Entity agrees that final Total Project Cost shall not be less than its estimated Total Project Cost.

## **ARTICLE II - APPROVAL**

### **Section 2.1 Approval of Tax Exemption**

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: Block 733, Lot A.2, more commonly known by the street address of 325 Palisade Avenue, and described by metes and bounds in Exhibit 1 attached hereto.

### **Section 2.2 Approval of Entity**

Approval is granted to the Entity whose Certificate of Formation is attached hereto as Exhibit 4. Entity represents that its Certificate contains all the requisite provisions of the Law; has been reviewed and approved by the Commissioner of the Department of Community Affairs; and has been filed with, as appropriate, the Office of the State Treasurer or Office of the Hudson County Clerk, all in accordance with N.J.S.A. 40A:20-5.

### **Section 2.3 Improvements to be Constructed**

Entity represents that it will rehabilitate and remodel an existing three-story building, to contain approximately twenty-one (21) residential rental units with 2,315 square feet of rented parking for the use of the residents only for approximately fourteen (14) cars, all of which is specifically described in the Application attached hereto as Exhibit 3.

### **Section 2.4 Construction Schedule**

The Entity agrees to diligently undertake to commence construction and complete the Project

in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5.

**Section 2.5 Ownership, Management and Control**

The Entity represents that it is the owner of the property upon which the Project is to be constructed. Upon construction, the Entity represents that the Improvements will be managed and controlled as follows:

The Entity represents that it is the owner of the Land upon which the project is to be constructed and will manage and control the Project. The City acknowledges that the Entity may enter into a management agreement for the Project and will pay a management fee in accordance with HUD regulations as provided in the Entity's agreement with HUD, which fee was disclosed in its tax exemption application. The City acknowledges that the Entity may enter into future management agreements so long as such agreements are not used to reduce the City's economic benefits under this Agreement and the management fees to be paid are comparable to those disclosed in the application.

**Section 2.6 Financial Plan**

The Entity represents that the Improvements shall be financed in accordance with the Financial Plan attached hereto as Exhibit 6. The Plan sets forth estimated Total Project Cost, the amortization rate on the Total Project Cost, the source of funds, the interest rates to be paid on construction financing, the source and amount of paid-in capital, and the terms of any mortgage amortization.

**Section 2.7 Statement of Rental Schedules and Lease Terms**

The Entity represents that its good faith projections of the initial rental schedules and lease terms are set forth in Exhibit 7.

**ARTICLE III - DURATION OF AGREEMENT**

**Section 3.1 Term**

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of 25 years from the date of the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 2009, which approved the tax exemption or 20 years from the date of Substantial Completion of the Project. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the

