City Clerk File No. Ord. 11-012

Agenda No. 3.A 1st Reading

Agenda No. 4.A. 2nd Reading & Final Passage

ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 11-012

TITLE: **ORDINANCE SUPPLEMENTING CHAPTER A351 (EXECUTIVE ORDERS AND ORDINANCES) OF THE JERSEY CITY CODE**

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

A. The following supplements to Chapter A351 (Executive Orders and Ordinances) of the Jersey City Code are adopted:

Labor Grade	Title
*	Chief Landscape Architect

B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

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

D. This ordinance shall take effect at the time and in the manner as provided by law.

E. 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 repealers of existing provisions.

NOTE: All new material is underlined; words in [~~brackets~~] are omitted.
For purposes of advertising only, new matter is indicated by **boldface** and repealed matter by *italic.*

**Pursuant to N.J.S.A. 40:69A-43a.*

JM/he
1/18/11

02 11014

APPROVED AS TO LEGAL FORM

Corporation Counsel

APPROVED:

APPROVED:

Business Administrator

Certification Required ☐

Not Required ☐

City of
JERSEY CITY
JERRAMIAH T. HEALY, Mayor
280 Grove Street
Jersey City, New Jersey 07302

(201) 547-5000
Fax (201) 547-4288

E.O._____ _____, 2011

**EXECUTIVE ORDER OF THE MAYOR
OF THE
CITY OF JERSEY CITY**

CLASSIFIED POSITIONS FOR CITY EMPLOYEES

Pursuant to the Faulkner Act, N.J.S.A. 40:69A-48, as amended by L.1985, c.374, the Mayor is now authorized to set the salaries, wages or other compensation of all employees of administrative departments except department directors and employees whose salaries are required to be set by ordinance.

Pursuant to this authorization, I issue the following Executive Order establishing guidelines for salaries and wages of those employees whose salaries are set by the Mayor:

Labor Grade	Title
34	Chief Landscape Architect

This order shall take effect immediately.

Very truly yours,

JERRAMIAH T. HEALY, MAYOR

JTH/he

cc: John Kelly, Business Administrator
William T. Matsikoudis, Corporation Counsel
Robert Byrne, City Clerk
Paul Soyka, Chief Financial Officer
Larry Ross, Personnel Director

Ordinance/Resolution Fact Sheet

This summary sheet is to be attached to the front of any ordinance, resolution, cooperation agreement, or contract that is submitted for Council consideration. Incomplete or sketch summary sheets will be returned with the resolution or ordinance. The Department, Division, or Agency responsible for the overall implementation of the proposed project or program should provide a concise and accurate state of facts.

Full Title of Ordinance/Resolution/Cooperation Agreement:

Chief Landscape Architect

Name & Title of Person Initiating Ordinance/Resolution, Etc.:
Larry Ross, Personnel Director

Concise Description of the Program, Project, or Plan Proposed in the Ordinance:
To establish a new title in accordance with New Jersey Department of Personnel Rules and Regulations.

Reasons for the Proposed Program, Project, Etc.:
Brian Weller Title Change from Landscape Architect to Chief Landscape Architect -
To assume many of the duties of former employee Glenn Wrigley- Chief Architect

Anticipated Benefits to the Community:

Cost of Program, Project, Etc. : (Indicate the dollar amount of City, State, Federal funds to be used as well as match and in-kind contributions.)

Date Proposed Program or Project will Commence:
Anticipated Completion Date:

Person Responsible for Coordinating Proposed Program, Project Etc.:

Additional Comments:
Union Affiliation- Mgt Labor Grade - 34

I Certify That All Facts Present Herein Are Accurate.

1/5/11
Date

Rodney Dudley
Department Director

Date Submitted to Business Administrator 1/5/11

NEW TITLE

TITLE: CHIEF LANDSCAPE ARCHITECT

LABOR GRADE: 34

MIN. $23,400 MAX. $70,895

UNION: MGMT.

DEPT.: PUBLIC WORKS

BRIAN WELLER

Salary: $68,600 + 200

INTER

OFFICE

MEMO

Department of Public Works
Office of the Director

To: Mayor Jerramiah Healy

From: Rodney Hadley, Director, Department of Public Works

Subject: **Change of Title: Brian Weller**

Date: January 12, 2011

I am recommending that Mr. Brian Wellers' title of Landscape Architect be changed to Chief Landscape Architect filling management role vacated by former Chief Architect Glenn Wrigley. Kindly note there is no additional salary increase.

Since the departure of Chief Architect, Glenn Wrigley, there has been a void left in the daily operation of Division of Architecture.

Mr. Weller has the necessary credentials and experience to handle this position. This title change will allow Mr. Weller to effectively manage and discipline employees within Division of Architecture.

I am hopeful that upon completion of your review, you will find Mr. Brian Weller acceptable and render him eligible for the position of Chief Landscape Architect.

Rodney Hadley, Director,
Department of Public Works

RH/sac

Ordinance of the City of Jersey City, N.J.

ORDINANCE NO. Ord. 11-012

TITLE: 3.A. JAN 2 6 2011 4.A. FEB 0 9 2011

Ordinance supplementing Chapter A351 (Executive Orders and Ordinances) of the Jersey City Code. (Chief Landscape Architect)

RECORD OF COUNCIL VOTE ON INTRODUCTION JAN 2 6 2011 8-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING FEB 0 9 2011											
Councilperson VELAQUEZ moved, seconded by Councilperson GAUGHAN to close P.H. 7-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓						
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson____ moved to amend* Ordinance, seconded by Councilperson____ & adopted____											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
DONNELLY				FULOP							
LOPEZ				RICHARDSON				VELAZQUEZ			

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE FEB 0 9 2011 7-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓						
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on JAN 2 6 2011

Adopted on second and final reading after hearing on FEB 0 9 2011

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on FEB 0 9 2011

Robert Byrne, City Clerk

*Amendment(s):

APPROVED:

Peter M. Brennan, Council President

Date: FEB 0 9 2011

APPROVED:

Jerramiah T. Healy, Mayor

Date FEB 1 5 2011

Date to Mayor FEB 1 0 2011

City Clerk File No. Ord. 11-013

Agenda No. 3.B 1st Reading

Agenda No. 4.B. 2nd Reading & Final Passage

ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 11-013

TITLE: **ORDINANCE CONSENTING TO THE SALE AND ASSIGNMENT OF THE TAX EXEMPTION AND FINANCIAL AGREEMENT FROM 70 HUDSON STREET URBAN RENEWAL ASSOCIATES, LLC, TO RT 70 HUDSON URBAN RENEWAL, LLC, PURSUANT TO SECTION 9.1 OF THE FINANCIAL AGREEMENT AND N.J.S.A. 40A:20-22 OF THE LONG TERM TAX EXEMPTION LAW**

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

WHEREAS, 70 Hudson Street Urban Renewal Associates, LLC, is 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. [Entity]; and

WHEREAS, the Entity owns certain property known as Block 5, Lot 30 (formerly known as Block 5, Lots 1, 2, 3, 4 and A2) on the City's Official Tax map, consisting of approximately 1.16 acres, and more commonly known by the street address of 70 Hudson Street, Jersey City, New Jersey [Property], all of which is located within the boundaries of the Colgate Redevelopment Plan; and

WHEREAS, by the adoption of Ordinance 99-044 on April 14, 1999, the Municipal Council of the City of Jersey City approved a 20 year tax exemption and authorized the execution of a financial agreement for a project to consist of a 12 story building to contain approximately 394,296 gross square feet of office space; and

WHEREAS, the Entity proposed to pay a service charge calculated as 2% of total project cost, which sum is subject to Staged Adjustments and Periodic Increases over the term of the tax exemption; and

WHEREAS, the Entity and the City executed a Financial Agreement on October 20, 1999 [Financial Agreement], with an estimated annual service charge of $1,059,527 plus an administrative fee; and

WHEREAS, on November 30, 2010, the Entity applied to the City for its consent to the sale of the project to RT 70 Hudson Urban Renewal LLC, 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.; and

WHEREAS, the New Entity has agreed to assume all obligations of the Entity under the Financial Agreement; and

WHEREAS, pursuant to Section 9.1 of the Financial Agreement, upon written application by the Entity, the City is required to consent to the sale or transfer of a tax exemption if: 1) the New Entity does not own any other tax exempt project; 2) the New Entity is formed and eligible to operate under the Law; 3) the existing Entity is not in default of its financial agreement or the Law; and 4) the New Entity agrees to assume all obligations of the existing Entity; and

ORDINANCE CONSENTING TO THE SALE AND ASSIGNMENT OF THE TAX EXEMPTION AND FINANCIAL AGREEMENT FROM 70 HUDSON STREET URBAN RENEWAL ASSOCIATES, LLC, TO RT 70 HUDSON URBAN RENEWAL, LLC, PURSUANT TO SECTION 9.1 OF THE FINANCIAL AGREEMENT AND N.J.S.A. 40A:20-22 OF THE LONG TERM TAX EXEMPTION LAW

WHEREAS, the New Entity will continue to pay a service charge of 2% of total project cost which in 2010 was approximately $1,170,327.

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

A. The Application of 70 Hudson Street Urban Renewal Associates, 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. attached hereto, for Block 5, Lot 30 (formerly known as Block 5, Lots 1, 2, 3, 4 and A2), and more commonly known by the street address of 70 Hudson Street, to sell the project and transfer the tax exemption, is hereby approved.

B. The Mayor or Business Administrator is hereby authorized to execute a consent to assignment and assumption agreement with RT 70 Hudson Urban Renewal, LLC, as well as any other documents appropriate or necessary to effectuate the sale and transfer of the Project and the tax exemption financial agreement, and the purposes of this ordinance.

C. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

D. 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.

E. This ordinance shall take effect at the time and in the manner provided by law.

F. 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
1-19-11

APPROVED AS TO LEGAL FORM

Corporation Counsel

APPROVED:

APPROVED:

Business Administrator

Certification Required ☐

Not Required ☐

SUPPLEMENTAL MEMORANDUM

RECEIVED
2011 JAN 26 P 1:44
CITY CLERK'S OFFICE
JERSEY CITY, N.J.

TO: Council President Brennan and Council Members

FROM: Joanne Monahan, 1st Assistant Corporation Counsel

DATE: January 26, 2011

SUBJECT: 70 Hudson Street and 90 Hudson Street

For a short period of time (late 1990's), the City required many developers to pay a transfer fee equal to 1% of the project sales price, notwithstanding the absence of *explicit* authority to do so in the Long Term Tax Exemption Law, NJSA 40A:20-1 et seq. This requirement was stated as a term in the financial agreement.

As the result of a lawsuit by the Township of Secaucus and the 2003 amendments to the Long Term Tax Exemption Law, it was made clear by the Court and the State legislature, that the City's prior practice, while well intentioned, was not in accord with the law. Thereafter, the 1% of project sales price transfer fee could not be made a term in any newly approved financial agreements.

Under the 2003 amendments, two things occurred. One, all the terms of financial agreements already approved were "saved" or grand-fathered, pursuant to NJSA 40A:20-22. This means that any existing agreements with a 1% of project sales price transfer fee that predate 2003, are enforceable. Two, a transfer fee (or administrative fee) was permitted, however, it is only an optional term (ie it must be negotiated) and it is limited, it cannot exceed 2% of the *annual service charge* (obviously, a significantly lower dollar amount than the *project sales price*). So post 2003, the City may charge a 2% of annual service charge as a transfer fee but only if it made a term of the financial agreement.

As to 70 Street and 90 Hudson Street, the financial agreements were approved in 1998 and 1999, respectively. Neither financial agreement requires the payment of any transfer fee. Notwithstanding, and at the urging the Council, I contacted the applicant and asked that they pay a transfer fee in accordance with the 2003 amendment to the Long Term Tax Exemption Law, NJSA 40A:20-10(d). That fee for both projects, would amount to approximately $50,000. The applicant has agreed to pay that sum as a good corporate citizen. Accordingly, I have amended both Consent to Assignment and Assumption Agreements to add a transfer fee based upon 2% of the annual service charge. The new agreements are attached.

A question was also posed: "what if the Council defeats the ordinance?" Should the City defeat the ordinance, the applicant will undoubtably sue the City to declare the City in default of the financial agreements and obtain the City's consent by court order. In doing so, it would also likely signal to the business community that the City does not honor its written agreements. With that said, I would urge you to adopt the ordinance but I will be guided by whatever decision you make.

cc: William Matsikoudis, Corporation Counsel
Robert Byrne, City Clerk
Jack Kelly, Business Administrator

Wednesday, January 26, 2011

CONSENT TO ASSIGNMENT OF FINANCIAL AGREEMENT AND ASSUMPTION OF FINANCIAL AGREEMENT, AMONG 70 HUDSON STREET URBAN RENEWAL ASSOCIATES, LLC AND RT 70 HUDSON URBAN RENEWAL, LLC AND THE CITY OF JERSEY CITY

THIS AGREEMENT is dated the ___ day of February, 2011, between the **CITY OF JERSEY CITY [City]**, located at 280 Grove Street, Jersey City, New Jersey 07302, **70 HUDSON STREET URBAN RENEWAL ASSOCIATES, L.L.C.,** a New Jersey limited liability company having an office at c/o Allen Magrini, Esq. 400 Plaza Drive, Secaucus, N.J. 07094, and **RT 70 HUDSON URBAN RENEWAL LLC**, a New Jersey limited liability company having an office at c/o K&L Gates, LLC, One Newark Center, 10th Floor, Newark, New Jersey 07102-5252.

WHEREAS, pursuant to N.J.S.A. 40A:20-1 et seq., and Ordinance 99-044 adopted on April 14, 1999, the City approved a Long Term Tax Exemption and the execution of a Financial Agreement with 70 Hudson Street Urban Renewal Associates, LLC [Entity], for the construction of a twelve (12) story building, to contain 394,296 gross square feet of office space and related parking, and more particularly described as Block 5, Lot 30 (formerly known as Block 5, Lots 1,2,3,4 and A2), on the official Tax Map of the City of Jersey City [Project]; and

WHEREAS, the City and 70 Hudson Street Urban Renewal Associates, LLC, entered into a financial agreement dated October 20, 1999.

WHEREAS, pursuant to an Agreement of Sale, 70 Hudson Street Urban Renewal Associates, LLC, as seller agreed to sell the Project and assign the Financial Agreement to RT 70 Hudson Urban Renewal LLC [the New Entity]; and

WHEREAS, the Financial Agreement provides that any sale of the Project or Assignment of the Financial Agreement is null and void unless approved by the City in advance; and

WHEREAS, by application dated November 30, 2010, 70 Hudson Street Urban Renewal Associates, L.L.C., formally requested that the City give its consent and approval to the sale by 70 Hudson Renewal Associates, LLC, of the Project and assignment of the Financial Agreement to RT 70 Hudson Renewal LLC; and

WHEREAS, by adoption of Ordinance _____ on _____, 2011, the Municipal Council of the City of Jersey City consented to a sale of the Project from 70 Hudson Street Urban Renewal Associates, L.L.C. to RT 70 Hudson Urban Renewal LLC; consented to the assignment of the Financial Agreement by 70 Hudson Street Urban Renewal Associates, L.L.C. and assumption of the Financial Agreement by RT 70 Hudson Urban Renewal LLC; and authorized the City Business Administrator to execute any documents necessary and appropriate to effectuate the foregoing; and

WHEREAS, the parties hereto now seek to memorialize the consent of the City to the assignment of the Financial Agreement by 70 Hudson Street Renewal Associates, LLC and the assumption of the Financial Agreement by RT 70 Hudson Urban Renewal LLC;

NOW, THEREFORE, it is hereby agreed by and between the parties as follows:

1. Pursuant to Section 9.1 of the Financial Agreement, upon written application by the Entity, the City is required to consent to the sale or transfer of a tax exemption if: 1) the New Entity does not own any other tax exempt projects; 2) the New Entity is formed and eligible to operate under the Law; 3) the existing Entity is not in default of the Financial Agreement; and 4) the New Entity agrees to assume all obligations of the existing Entity under the Financial Agreement.

2. The City hereby authorizes, approves and consents to the Assignment by 70 Hudson Street Urban Renewal Associates, L.L.C. of the Financial Agreement to RT 70 Hudson Street Urban Renewal LLC and the assumption of the Financial Agreement by RT 70 Hudson Urban Renewal LLC;

3. The City acknowledges that as of the date hereof, the names and the addresses of the parties entitled to receive notice under and pursuant to paragraph 9.1 of the Financial Agreement shall be as follows:

70 Hudson Street Urban Renewal Associates, LLC
c/o Allen Magrini, Esq

400 Plaza Drive
Secaucus, New Jersey 07094

-and-
RT 70 Hudson Urban Renewal, LLC
c/o K&L Gates, LLC
One Newark Center
Newark, New Jersey 07102-5252

5. The Financial Agreement dated October 20, 1999, hereby remains in full force and effect.

This Agreement shall not be valid or binding on any party hereto unless and until executed by all parties hereto. This Agreement may be executed and delivered in one or more counterparts.

6. The Entity agrees to pay a transfer or administrative fee equal to 2% of the annual service charge, for the processing of the request to continue this tax exemption.

Any and all capitalized terms in this Agreement shall be defined in accordance with and by reference to the Financial Agreement and/or N.J.S.A. 40A:20-1 et seq.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first set forth above.

ATTESTED:

CITY OF JERSEY CITY

_____
ROBERT BYRNE
CITY CLERK

_____
JOHN KELLY
BUSINESS ADMINISTRATOR

70 HUDSON STREET URBAN RENEWAL ASSOCIATES, LLC,
a New Jersey limited liability company

By:_____

RT 70 HUDSON URBAN RENEWAL, L.L.C.
A New Jersey limited liability company

By:_____

Rev. 5-4-99
Long Term Tax Exemption
N.J.S.A. 40A:20-1, et seq.
(Commercial/Office}

Re: 70 Hudson Street
Approximately 1.16 Acres
Block 5, Lots 1, 2, 3, 4 and 2
Colgate Redevelopment Plan Area

PREAMBLE

THIS FINANCIAL AGREEMENT, [Agreement] is made this 20th day of October, 1999, by and between **70 HUDSON STREET URBAN RENEWAL ASSOCIATES, 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 400 Plaza Drive, Secaucus, New Jersey 07094 [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 Lessee under a Lease dated _____ of certain property designated as Block 5, Lots 1, 2, 3, 4 and A2, more commonly known by the street address of 70 Hudson Street 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 Colgate Redevelopment Plan Area; and

WHEREAS, the Entity plans to construct a 12 story building, to contain 394,296 gross square feet of office space and related parking [Project]; and

WHEREAS, on March 4, 1999, the Entity filed an Application with the City for approval of a long term tax exemption for the Project; and

WHEREAS, the City made the following findings:

payable by it] pursuant to the provisions of N.J.S.A. 40A:20-15.

The Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount equal tot ten (10%) percent of the Gross Revenues of the Entity for the last full fiscal year preceding the year and may retain such part of the excess Net Profits as is necessary to eliminate a deficiency in that reserve, as provided in N.J.S.A. 40A:20-15. The reserve is to be noncumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of ten (10%) percent of the preceding year's Gross Revenues.

Section 8.2 Annual Payment of Excess Net Profit

In the event the Net Profits of the Entity, in any fiscal year, shall exceed the allowable Net Profits for such period, then the Entity, within 90 days after the end of such fiscal year, shall pay such excess Net Profits to the City as an additional service charge; provided, however, that the Entity may maintain a reserve as determined pursuant to aforementioned paragraph 8.1.

Section 8.3 Payment of Reserve/ Excess Net Profit Upon Termination, Expiration or Sale

The date of termination, expiration or sale shall be considered to be the close of the fiscal year of the Entity. Within 90 days after such date, the Entity shall pay to the City the amount of the reserve, if any, maintained by it pursuant to this section and the excess Net Profit, if any.

ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION

Section 9.1 Approval

Any change made in the ownership of the Project and sale or transfer of the Project, shall be void unless approved in advance by Ordinance of the Municipal Council. It is understood and agreed that the City, on written application by the Entity, will not unreasonably withhold its consent to a sale of the Project and the transfer of this Agreement provided 1) the new Entity does not own any other

Project subject to long term tax exemption at the time of transfer; 2) the new Entity is formed and eligible to operate under the Law; 3) the Entity is not then in default of this Agreement or the Law; 4) the Entity's obligations under this Agreement is fully assumed by the new Entity.

Section 9.2 Fee

Where the consent or approval of the City is sought for approval of a change in ownership or sale or transfer of the Project, the Entity shall be required to pay to the City a new tax exemption application fee for the legal and administrative services of the City, as it relates to the review, preparation and/or submission of documents to the Municipal Council for appropriate action on the requested assignment. The fee shall be non-refundable.

Section 9.3 Transfer to Nonprofit.

In the event that the Entity transfers, sells, demises, conveys, or in any manner relinquishes ownership or title to the Land and Improvements covered by this tax exemption agreement to a tax exempt non-profit organization or institution during the term of the tax exemption agreement, it is understood and agreed by the Entity that it shall pay to the City a sum equal to the total taxes which would have been assessed on Improvements covered by the Project for the three (3) years preceding the transfer of the Project.

Section 9.4 Severability.

It is an express condition of the granting of this tax exemption that during its duration, the Entity shall not, without the prior consent of the Municipal Council by Ordinance, convey, mortgage or transfer, all or part of the Project so as to sever, disconnect, or divide the improvements from the lands which are basic to, embraced in, or underlying the exempted improvements.

ARTICLE X - COMPLIANCE

Section 10.1 Operation

During the term of this Agreement, the Project shall be maintained and

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

ATTEST:

ALLEN J. MAGRINI
Assistant Secretary

70 HUDSON STREET URBAN RENEWAL ASSOCIATES, LLC
BY: HARTZ MOUNTAIN INDUSTRIES, INC. (Member)

IRWIN A. HOROWITZ, EXECUTIVE VICE PRESIDENT

ATTEST:

ROBERT BYRNE
CITY CLERK

CITY OF JERSEY CITY

ROBERT LOMBARD
BUSINESS ADMINISTRATOR

MEMORANDUM

TO: Council President Brennan and Council Members

FROM: Joanne Monahan, 1st Assistant Corporation Counsel

DATE: February 8, 2011

SUBJECT: Ordinances Authorizing the Sale by the 70 Hudson Street Associates LLC and 90 Hudson Street Associates, LLC

RECEIVED
2011 FEB -9 P 4:19
CITY CLERK'S OFFICE
JERSEY CITY, N.J.

A question arose with respect to the above ordinances. Section 9.1 of the Financial Agreement as well as NJSA 40A:20-10(a) state that a municipality may consent to a sale of the project, providing the *urban renewal entity* owns "no other project at the time of the transfer".

As I understand it, there appears to be some confusion because Hartz Mountain Industries, Inc is the managing member and 99% owner of each of the entities involved in this transaction– 70 Hudson Street Associates and 90 Hudson Street Associates, the present owners, and RT 70 Hudson Urban Renewal, LLC and RT 90 Urban Renewal, LLC, the prospective purchasers. There are differences among these entities in terms of ownership interest, but only as to the remaining 1% of each entity.

The fact that Hartz Mountain Industries, Inc is a common owner in these entities, however, does not change the fact that they are four separate legal entities under the law. In the business world, single purpose corporations that own a single asset, such as real estate, are a routine and legal business practice. And it is no different under the Long Term Tax Exemption Law, NJSA 40A:20-1 et seq. One person or company is free to create as many urban renewal entities as desired so long as the entities only own one project and otherwise comply with the requirements of the statute.

A corporation is defined as "an entity (usu. a business) having authority under the law to act as a single person distinct from the shareholders who own it...[with] a [distinct] legal personality...an artificial being...existing only in contemplation of law". Henry Campbell Black, *Black's Law Dictionary* (7th Edition, West Group 1999). NJSA 40A:20-3(g) sets forth the definition of an urban renewal entity. NJSA 40A:20-5 states that an urban renewal entity can only qualify as such if its certificate states that it "shall engage in no business other than the ownership, operation, and management of the project". The certificates of incorporation for every urban renewal entity must also be "reviewed and approved by the [NJ] Commissioner of the Department of Community Affairs". NJSA 40A:20-5(g).

Thus, the statutory and contractual (financial agreement) prohibition is against an *entity* owning *more than one project.* It does not bar a person or company from owning an *interest* in more than one project so long as each project is owned by a separate urban renewal entity. The fact that the shareholders or members or ownership of two or more entities are the same does not mean that City can regard the corporations as legally "merged". That reasoning would not be a defensible legal basis to withhold the City's consent.

Please be guided accordingly.

cc: William Matsikoudis, Corporation Counsel; Jack Kelly, Business Administrator

Ordinance of the City of Jersey City, N.J.

ORDINANCE NO. Ord. 11-013

3.B. JAN 2 6 2011 4.B. FEB 0 9 2011

TITLE:

Ordinance consenting to the sale and assignment of the tax exemption and financial agreement from 70 Hudson Street Urban Renewal Associates, LLC, to RT 70 Hudson Urban Renewal, LLC pursuant to section 9.1 of the financial agreement and N.J.S.A. 40A:20-22 of the Long Term Tax Exemption Law.

RECORD OF COUNCIL VOTE ON INTRODUCTION JAN 2 6 2011 8-0

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING FEB 0 9 2011

Councilperson BRENNAN moved, seconded by Councilperson VELAZQUEZ to close P.H. 7-0

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓						
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote YVONNE BALCER RIAZ WAHID ESTHER WINTNER JAYSON BURG N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY

Councilperson_____ moved to amend* Ordinance, seconded by Councilperson_____ & adopted_____

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
DONNELLY				FULOP							
LOPEZ				RICHARDSON				VELAZQUEZ			

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE FEB 0 9 2011 6-1

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP		✓					
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on JAN 2 6 2011

Adopted on second and final reading after hearing on FEB 0 9 2011

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on FEB 0 9 2011

Robert Byrne, City Clerk

*Amendment(s):

APPROVED:

Peter M. Brennan, Council President

Date: FEB 0 9 2011

APPROVED:

Jerramiah T. Healy, Mayor

Date FEB 1 5 2011

Date to Mayor FEB 1 0 2011

City Clerk File No. Ord. 11-014

Agenda No. 3.C 1st Reading

Agenda No. 4.C. 2nd Reading & Final Passage

ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 11-014

TITLE: **ORDINANCE CONSENTING TO THE SALE AND ASSIGNMENT OF THE TAX EXEMPTION AND FINANCIAL AGREEMENT FROM 90 HUDSON STREET URBAN RENEWAL ASSOCIATES, LLC, TO RT 90 HUDSON URBAN RENEWAL, LLC, PURSUANT TO SECTION 9.1 OF THE FINANCIAL AGREEMENT AND N.J.S.A. 40A:20-22 OF THE LONG TERM TAX EXEMPTION LAW**

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

WHEREAS, 90 Hudson Street Urban Renewal Associates, LLC, is 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. [Entity]; and

WHEREAS, the Entity owns certain property known as Block 6, Lot 15 (formerly known as Block 6, Lot 1A) on the City's Official Tax map, consisting of approximately 1.15 acres, and more commonly known by the street address of 90 Hudson Street, Jersey City, New Jersey [Property], all of which is located within the boundaries of the Colgate Redevelopment Plan; and

WHEREAS, by the adoption of Ordinance 98-042 on May 13, 1998, the Municipal Council of the City of Jersey City approved a 20 year tax exemption and authorized the execution of a financial agreement for a project to consist of a 12 story office building, and contain 404,000 gross square feet of office space and related parking; and

WHEREAS, the Entity proposed to pay a service charge calculated as 2% of total project cost, which sum is subject to Staged Adjustments and Periodic Increases over the term of the tax exemption; and

WHEREAS, the Entity and the City executed a Financial Agreement on May 13th, 1998 [Financial Agreement], with an estimated annual service charge of $1,088,336 plus an administrative fee; and

WHEREAS, on November 30, 2010, the Entity applied to the City for its consent to the sale of the project to RT 90 Hudson Urban Renewal LLC, 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.; and

WHEREAS, the New Entity has agreed to assume all obligations of the Entity under the Financial Agreement; and

WHEREAS, pursuant to Section 9.1 of the Financial Agreement, upon written application by the Entity, the City is required to consent to the sale or transfer of a tax exemption if: 1) the New Entity does not own any other tax exempt project; 2) the New Entity is formed and eligible to operate under the Law; 3) the existing Entity is not in default of its financial agreement or the Law; and 4) the New Entity agrees to assume all obligations of the existing Entity; and

ORDINANCE CONSENTING TO THE SALE AND ASSIGNMENT OF THE TAX EXEMPTION AND FINANCIAL AGREEMENT FROM 90 HUDSON STREET URBAN RENEWAL ASSOCIATES, LLC, TO RT 90 HUDSON URBAN RENEWAL, LLC, PURSUANT TO SECTION 9.1 OF THE FINANCIAL AGREEMENT AND N.J.S.A. 40A:20-22 OF THE LONG TERM TAX EXEMPTION LAW

WHEREAS, the New Entity will continue to pay service charge equal to 2% of total project cost which in 2010 was approximately $1,313,295.

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

A. The Application of 90 Hudson Street Urban Renewal Associates, 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. attached hereto, for Block 6, Lot 15 (formerly known as Block 6, Lot 1A), and more commonly known by the street address of 90 Hudson Street, to sell the project and transfer the tax exemption, is hereby approved.

B. The Mayor or Business Administrator is hereby authorized to execute a consent to assignment and assumption agreement with RT 90 Hudson Urban Renewal, LLC, as well as any other documents appropriate or necessary to effectuate the sale and transfer of the Project and the tax exemption financial agreement, and the purposes of this ordinance.

C. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

D. 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.

E. This ordinance shall take effect at the time and in the manner provided by law.

F. 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
1-19-11

APPROVED AS TO LEGAL FORM

Corporation Counsel

APPROVED:

APPROVED:

Business Administrator

Certification Required ☐

Not Required ☐

SUPPLEMENTAL MEMORANDUM

RECEIVED
2011 JAN 26 P 1:44
CLERK'S OFFICE
JERSEY CITY, N.J.

TO: Council President Brennan and Council Members

FROM: Joanne Monahan, 1st Assistant Corporation Counsel

DATE: January 26, 2011

SUBJECT: 70 Hudson Street and 90 Hudson Street

For a short period of time (late 1990's), the City required many developers to pay a transfer fee equal to 1% of the project sales price, notwithstanding the absence of *explicit* authority to do so in the Long Term Tax Exemption Law, NJSA 40A:20-1 et seq. This requirement was stated as a term in the financial agreement.

As the result of a lawsuit by the Township of Secaucus and the 2003 amendments to the Long Term Tax Exemption Law, it was made clear by the Court and the State legislature, that the City's prior practice, while well intentioned, was not in accord with the law. Thereafter, the 1% of project sales price transfer fee could not be made a term in any newly approved financial agreements.

Under the 2003 amendments, two things occurred. One, all the terms of financial agreements already approved were "saved" or grand-fathered, pursuant to NJSA 40A:20-22. This means that any existing agreements with a 1% of project sales price transfer fee that predate 2003, are enforceable. Two, a transfer fee (or administrative fee) was permitted, however, it is only an optional term (ie it must be negotiated) and it is limited, it cannot exceed 2% of the *annual service charge* (obviously, a significantly lower dollar amount than the *project sales price*). So post 2003, the City may charge a 2% of annual service charge as a transfer fee but only if it made a term of the financial agreement.

As to 70 Street and 90 Hudson Street, the financial agreements were approved in 1998 and 1999, respectively. Neither financial agreement requires the payment of any transfer fee. Notwithstanding, and at the urging the Council, I contacted the applicant and asked that they pay a transfer fee in accordance with the 2003 amendment to the Long Term Tax Exemption Law, NJSA 40A:20-10(d). That fee for both projects, would amount to approximately $50,000. The applicant has agreed to pay that sum as a good corporate citizen. Accordingly, I have amended both Consent to Assignment and Assumption Agreements to add a transfer fee based upon 2% of the annual service charge. The new agreements are attached.

A question was also posed: "what if the Council defeats the ordinance?" Should the City defeat the ordinance, the applicant will undoubtably sue the City to declare the City in default of the financial agreements and obtain the City's consent by court order. In doing so, it would also likely signal to the business community that the City does not honor its written agreements. With that said, I would urge you to adopt the ordinance but I will be guided by whatever decision you make.

cc: William Matsikoudis, Corporation Counsel
Robert Byrne, City Clerk
Jack Kelly, Business Administrator

Wednesday, January 26, 2011

CONSENT TO ASSIGNMENT OF FINANCIAL AGREEMENT AND ASSUMPTION OF FINANCIAL AGREEMENT, AMONG 90 HUDSON STREET URBAN RENEWAL ASSOCIATES, LLC AND RT 90 HUDSON URBAN RENEWAL, LLC AND THE CITY OF JERSEY CITY

THIS AGREEMENT is dated the ___ day of February, 2011, between the **CITY OF JERSEY CITY [City]**, located at 280 Grove Street, Jersey City, New Jersey 07302, **90 HUDSON STREET URBAN RENEWAL ASSOCIATES, L.L.C.,** a New Jersey limited liability company having an office at c/o Allen Magrini, Esq. 400 Plaza Drive, Secaucus, N.J. 07094, and **RT 90 HUDSON URBAN RENEWAL LLC**, a New Jersey limited liability company having an office at c/o K&L Gates, LLC, One Newark Center, 10th Floor, Newark, New Jersey 07102-5252.

WHEREAS, pursuant to N.J.S.A. 40A:20-1 et seq., and Ordinance 98-042 adopted on May 13, 1998, the City approved a Long Term Tax Exemption and the execution of a Financial Agreement with 90 Hudson Street Urban Renewal Associates, LLC [Entity], for the construction of a twelve (12) story building, to contain 404,000 gross square feet of office space and related parking, and more particularly described as Block 6, Lot 15 (formerly known as Block 6, Lot 1A) on the official Tax Map of the City of Jersey City [Project]; and

WHEREAS, the City and 90 Hudson Street Urban Renewal Associates, LLC, entered into a financial agreement dated May 13, 1998.

WHEREAS, pursuant to an Agreement of Sale, 90 Hudson Street Urban Renewal Associates, LLC, as seller agreed to sell the Project and assign the Financial Agreement to RT 90 Hudson Urban Renewal LLC [the New Entity]; and

WHEREAS, the Financial Agreement provides that any sale of the Project or Assignment of the Financial Agreement is null and void unless approved by the City in advance; and

WHEREAS, by application dated November 30, 2010, 90 Hudson Street Urban Renewal Associates, L.L.C., formally requested that the City give its consent and approval to the sale by 90 Hudson Renewal Associates, LLC, of the Project and assignment of the Financial Agreement to RT 90 Hudson Renewal LLC; and

WHEREAS, by adoption of Ordinance _____ on _____, 2011, the Municipal Council of the City of Jersey City consented to a sale of the Project from 90 Hudson Street Urban Renewal Associates, L.L.C. to RT 90 Hudson Urban Renewal LLC; consented to the assignment of the Financial Agreement by 90 Hudson Street Urban Renewal Associates, L.L.C. and assumption of the Financial Agreement by RT 90 Hudson Urban Renewal LLC; and authorized the City Business Administrator to execute any documents necessary and appropriate to effectuate the foregoing; and

WHEREAS, the parties hereto now seek to memorialize the consent of the City to the assignment of the Financial Agreement by 90 Hudson Street Renewal Associates, LLC and the assumption of the Financial Agreement by RT 90 Hudson Urban Renewal LLC;

NOW, THEREFORE, it is hereby agreed by and between the parties as follows:

1. Pursuant to Section 9.1 of the Financial Agreement, upon written application by the Entity, the City is required to consent to the sale or transfer of a tax exemption if: 1) the New Entity does not own any other tax exempt projects; 2) the New Entity is formed and eligible to operate under the Law; 3) the existing Entity is not in default of the Financial Agreement; and 4) the New Entity agrees to assume all obligations of the existing Entity under the Financial Agreement.

2. The City hereby authorizes, approves and consents to the Assignment by 90 Hudson Street Urban Renewal Associates, L.L.C. of the Financial Agreement to RT 90 Hudson Street Urban Renewal LLC and the assumption of the Financial Agreement by RT 90 Hudson Urban Renewal LLC;

3. The City acknowledges that as of the date hereof, the names and the addresses of the parties entitled to receive notice under and pursuant to paragraph 9.1 of the Financial Agreement shall be as follows:

90 Hudson Street Urban Renewal Associates, LLC
c/o Allen Magrini, Esq

400 Plaza Drive
Secaucus, New Jersey 07094

-and-
RT 90 Hudson Urban Renewal, LLC
c/o K&L Gates, LLC
One Newark Center
Newark, New Jersey 07102-5252

5. The Financial Agreement dated May 13, 1998, hereby remains in full force and effect.

This Agreement shall not be valid or binding on any party hereto unless and until executed by all parties hereto. This Agreement may be executed and delivered in one or more counterparts.

6. The Entity agrees to pay a transfer or administrative fee equal to 2% of the annual service charge, for the processing of the request to continue this tax exemption.

Any and all capitalized terms in this Agreement shall be defined in accordance with and by reference to the Financial Agreement and/or N.J.S.A. 40A:20-1 et seq.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first set forth above.

ATTESTED:

CITY OF JERSEY CITY

_____
ROBERT BYRNE
CITY CLERK

_____
JOHN KELLY
BUSINESS ADMINISTRATOR

90 HUDSON STREET URBAN RENEWAL ASSOCIATES, LLC,
a New Jersey limited liability company

By:_____

RT 90 HUDSON URBAN RENEWAL, L.L.C.
A New Jersey limited liability company

By:_____

Rev.2-10-99
Long Term Tax Exemption
N.J.S.A. 40A:20-1, et seq.
(Commercial Property)

Re: 90 Hudson Street
Approximately 1.15 Acres
Block 6, Lot 1A
Colgate Redevelopment Plan Area

PREAMBLE

THIS FINANCIAL AGREEMENT, [Agreement] as if it were made the 13th day of May, 1998, by and between **90 HUDSON STREET URBAN RENEWAL ASSOCIATES, 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 400 Plaza Drive, Secaucus, New Jersey 07094 [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 Lessee under a Lease dated March 16, 1998 of certain property designated as Block 6, Lot 1A, more commonly known by the street address of 90 Hudson Street 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 Colgate Redevelopment Plan Area; and

WHEREAS, the Entity plans to construct a 12 story office building, to contain 404,000 gross square feet of office space and related parking [Project]; and

WHEREAS, on March 30, 1998, the Entity filed an Application with the City for approval of 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 taxes generate revenue of only $77,422.50, whereas, the annual service charge as estimated, will generate revenue of more than $1,088,336.00 to the City;
2. the development will make a recreation contribution to the City in the amount of $303,225.00. Payment to be made as follows: (I) $101,075.00 upon commencement of the exemption, (ii) $101,075.00 on the first anniversary of the commencement of the exemption, and (iii) $101,075.00 on the second anniversary of the commencement of the exemption;

Section 7.3 Inspection

The Entity shall permit the inspection of its property, equipment, buildings and other facilities of the Project and, if reasonably deemed appropriate or necessary, any other related Entity by representatives duly authorized by the City and the NJ Division of Local Government Services in the Department of Community Affairs. It shall also permit, upon request, examination and audit of its books, contracts, records, documents and papers Such examination or audit shall be made during the reasonable hours of the business day, in the presence of an officer or agent designated by the Entity.

ARTICLE VIII- LIMITATION OF PROFITS AND RESERVES

Section 8.1 Limitation of Profits and Reserves

During the period of tax exemption as provided herein, the Entity shall be subject to a limitation of its profits [and, in the case of a corporation, the dividend payable by it] pursuant to the provisions of N.J.S.A. 40A:20-15.

The Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount equal to ten (10%) percent of the Gross Revenues of the Entity for the last full fiscal year preceding the year and may retain such part of the excess Net Profits as is necessary to eliminate a deficiency in that reserve, as provided in N.J.S.A. 40A:20-15. The reserve is to be noncumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of ten (10%) percent of the preceding year's Gross Revenues.

Section 8.2 Annual Payment of Excess Net Profit

In the event the Net Profits of the Entity, in any fiscal year, shall exceed the allowable Net Profits for such period, then the Entity, within 90 days after the end of such fiscal year, shall pay such excess Net Profits to the City as an additional service charge; provided, however, that the Entity may maintain a reserve as determined pursuant to aforementioned paragraph 8.1.

Section 8.3 Payment of Reserve/ Excess Net Profit Upon Termination, Expiration or Sale

The date of termination, expiration or sale shall be considered to be the close of the fiscal year of the Entity. Within 90 days after such date, the Entity shall pay to the City the amount of the reserve, if any, maintained by it pursuant to this section and the excess Net Profit, if any.

ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION

Section 9.1 Approval

Any change made in the ownership of the Project and sale or transfer of the Project, shall be void unless approved in advance by Ordinance of the Municipal Council. It is understood and agreed that the City, on written application by the Entity, will not unreasonably withhold its consent to a sale of the Project and the transfer of this Agreement provided 1) the new Entity does not own any other Project subject to long term tax exemption at the time of transfer; 2) the new Entity is formed and eligible to operate under the Law;

3) the Entity is not then in default of this Agreement or the Law; and 4) the Entity's obligations under this Agreement is fully assumed by the new Entity.

Section 9.2 Fee

Where the consent or approval of the City is sought for approval of a change in ownership or sale or transfer of the Project, the Entity shall be required to pay to the City a new tax exemption application fee for the legal and administrative services of the City, as it relates to the review, preparation and/or submission of documents to the Municipal Council for appropriate action on the requested assignment. The fee shall be non-refundable.

Section 9.3 Transfer to Nonprofit.

In the event that the Entity transfers, sells, demises, conveys, or in any manner relinquishes ownership or title to the land and improvements covered by this tax exemption agreement to a tax exempt non-profit organization or institution during the term of the tax exemption agreement, it is understood and agreed by the Entity that it shall pay to the City a sum equal to the total taxes which would have been assessed on Improvements covered by the Project for the three (3) years preceding the transfer of the Project.

Section 9.4 Severability.

It is an express condition of the granting of this tax exemption that during its duration, the Entity shall not, without the prior consent of the Municipal Council by Ordinance, convey, mortgage or transfer, all or part of the Project so as to sever, disconnect, or divide the improvements from the lands which are basic to, embraced in, or underlying the exempted improvements.

ARTICLE X - COMPLIANCE

Section 10.1 Operation

During the term of this Agreement, the Project shall be maintained and operated in accordance with the provisions of the Law. Operation of Project under this Agreement shall not only be terminable as provided by N.J.S.A. 40A:20-1, et seq., as currently amended and supplemented, but also by a Default under this Agreement. The Entity's failure to comply with the Law shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate the tax exemption.

ARTICLE XI - DEFAULT

Section 11.1 Default

Default shall be failure of the Entity or the City to conform with the terms of this Agreement or failure of the Entity or the City to perform any obligation imposed by the Law, beyond any applicable notice, cure or grace period.

Section 11.2 Cure Upon Default

Should the Entity be in Default, the City shall send written notice to the Entity of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The Entity shall have sixty (60) days, from receipt of the Default Notice, to cure any Default which shall be the sole

2. Ordinance of the City authorizing the execution of this Agreement;
3. The Application with Exhibits;
4. Certificate of the Entity;
5. Estimated Construction Schedule;
6. The Financial Plan for the undertaking of the Project;
7. Initial Rental Schedules and Lease Terms.
8. Project Employment Agreement;
9. Architect's Certification of Actual Construction Costs;
10. Total Project Cost.

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

90 HUDSON STREET URBAN RENEWAL ASSOCIATES, LLC

ATTEST:

ALLEN J. MACRINI,
Asst. Secretary

BY: HARTZ MOUNTAIN INDUSTRIES INC. (Member)

MARK KILLOUGH
Vice President

ATTEST:

ROBERT BYRNE
CITY CLERK

CITY OF JERSEY CITY

ROBERT LOMBARD
BUSINESS ADMINISTRATOR

MEMORANDUM

TO: Council President Brennan and Council Members

FROM: Joanne Monahan, 1st Assistant Corporation Counsel

DATE: February 8, 2011

SUBJECT: Ordinances Authorizing the Sale by the 70 Hudson Street Associates LLC and 90 Hudson Street Associates, LLC

RECEIVED
2011 FEB -9 P 4:49
CITY CLERK'S OFFICE
JERSEY CITY, N.J.

A question arose with respect to the above ordinances. Section 9.1 of the Financial Agreement as well as NJSA 40A:20-10(a) state that a municipality may consent to a sale of the project, providing the *urban renewal entity* owns "no other project at the time of the transfer".

As I understand it, there appears to be some confusion because Hartz Mountain Industries, Inc is the managing member and 99% owner of each of the entities involved in this transaction– 70 Hudson Street Associates and 90 Hudson Street Associates, the present owners, and RT 70 Hudson Urban Renewal, LLC and RT 90 Urban Renewal, LLC, the prospective purchasers. There are differences among these entities in terms of ownership interest, but only as to the remaining 1% of each entity.

The fact that Hartz Mountain Industries, Inc is a common owner in these entities, however, does not change the fact that they are four separate legal entities under the law. In the business world, single purpose corporations that own a single asset, such as real estate, are a routine and legal business practice. And it is no different under the Long Term Tax Exemption Law, NJSA 40A:20-1 et seq. One person or company is free to create as many urban renewal entities as desired so long as the entities only own one project and otherwise comply with the requirements of the statute.

A corporation is defined as "an entity (usu. a business) having authority under the law to act as a single person distinct from the shareholders who own it...[with] a [distinct] legal personality...an artificial being...existing only in contemplation of law". Henry Campbell Black, *Black's Law Dictionary* (7th Edition, West Group 1999). NJSA 40A:20-3(g) sets forth the definition of an urban renewal entity. NJSA 40A:20-5 states that an urban renewal entity can only qualify as such if its certificate states that it "shall engage in no business other than the ownership, operation, and management of the project". The certificates of incorporation for every urban renewal entity must also be "reviewed and approved by the [NJ] Commissioner of the Department of Community Affairs". NJSA 40A:20-5(g).

Thus, the statutory and contractual (financial agreement) prohibition is against an *entity* owning *more than one project.* It does not bar a person or company from owning an *interest* in more than one project so long as each project is owned by a separate urban renewal entity. The fact that the shareholders or members or ownership of two or more entities are the same does not mean that City can regard the corporations as legally "merged". That reasoning would not be a defensible legal basis to withhold the City's consent.

Please be guided accordingly.

cc: William Matsikoudis, Corporation Counsel; Jack Kelly, Business Administrator

Ordinance of the City of Jersey City, N.J.

ORDINANCE NO. Ord. 11-014

TITLE: 3.C. JAN 2 6 2011 4.C. FEB 0 9 2011

Ordinance consenting to the sale and assignment of the tax exemption and financial agreement from 90 Hudson Street Urban Renewal Associates, LLC, to RT 90 Hudson Urban Renewal, LLC, pursuant to section 9.1 of the financial agreement and N.J.S.A. 40A:20-22 of the Long Term Tax Exemption Law.

RECORD OF COUNCIL VOTE ON INTRODUCTION JAN 2 6 2011 8-0

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING FEB 0 9 2011

Councilperson BRENNAN moved, seconded by Councilperson GAUGHAN to close P.H. 7-0

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓						
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote ESTHER WENTNER JAYSON BURG N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY

Councilperson_____ moved to amend* Ordinance, seconded by Councilperson_____ & adopted_____

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
DONNELLY				FULOP							
LOPEZ				RICHARDSON				VELAZQUEZ			

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE FEB 0 9 2011 6-1

COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP		✓					
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on JAN 2 6 2011

Adopted on second and final reading after hearing on FEB 0 9 2011

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on FEB 0 9 2011

Robert Byrne, City Clerk

*Amendment(s):

APPROVED:

Peter M. Brennan, Council President

Date: FEB 0 9 2011

APPROVED:

Jeramiah T. Healy, Mayor

Date FEB 1 5 2011

Date to Mayor FEB 1 0 2011

City Clerk File No. Ord. 11-015

Agenda No. 3.D 1st Reading

Agenda No. 4.D. 2nd Reading & Final Passage

ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 11-015

TITLE: **ORDINANCE AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY OF JERSEY CITY, AS LESSEE, AND 18 ASH STREET REALTY, LLC., AS LESSOR, FOR FIRE AND EMERGENCY STORAGE SPACE IN THE PREMISES AT LOCATED AT 46 STATE STREET, JERSEY CITY, NEW JERSEY**

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

WHEREAS, the City of Jersey City ("City") has and continues to have need of storage space for equipment used by the City's Fire and Emergency Services; and

WHEREAS, the City has leased approximately 6000 square feet storage space at 46 State Street, Jersey City, New Jersey from 18 Ash Street Realty, LLC which lease will end on December 31, 2010; and

WHEREAS, the City wishes to enter into a new lease with a 5-year term at the same base rent as charged in 2010; and

WHEREAS, the City will, therefore, pay to the lessor the monthly base rent of $4,400.00, which is $52,800.00, annually for five (5) years, plus real property taxes which in 2011 are $7,000.00; and

WHEREAS, N.J.S.A. 40A:12-5 provides that a municipality may by ordinance, acquire property by lease; and

WHEREAS, funds in the amount of $59,800.00 are available in Account No. 10-17-289-56-000-002.

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

1. Subject to such modifications as may be deemed necessary or appropriate by Corporation Counsel, the Mayor or Business Administrator is authorized to execute the attached Lease Agreement with 18 Ash St, LLC for storage space for equipment used by the City's Fire and Emergency Services located at 46 State Street, Jersey City, New Jersey.

2. The term of the Lease shall be five (5) years commencing on January 1, 2011 and ending on December 31, 2015.

3. The total rental fee shall not exceed $52,800 each year for five (5) years and shall be payable in 12 equal installments of $4,400.00 per month, payable on the first day of each month, together with real estate 2011 taxes in the amount of $7,000.00 for a total of $59,800.00.

4. Funds in the amount of $59,800.00 are available in Account No.17-289-56-000-002.

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 codified and incorporated in the official

ORDINANCE AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY OF JERSEY CITY, AS LESSEE, AND 18 ASH STREET REALTY, LLC., AS LESSOR, FOR FIRE AND EMERGENCY STORAGE SPACE IN THE PREMISES LOCATED AT LOCATED AT 46 STATE STREET, JERSEY CITY, NEW JERSEY

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 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*.

I, _____ Donna Mauer, Chief Financial Officer, certify that funds in the amount of $59,800.00 are available in Account No.17-289-56-000-002.

JD/jn
1/6/11

APPROVED AS TO LEGAL FORM

_____
Corporation Counsel

APPROVED: _____

APPROVED: _____
Business Administrator

Certification Required ☐
Not Required ☐

LEASE

This **LEASE**, made the first day of January, 2011, by and between 18 Ash Street, LLC, having an address of 18 Ash Street, Jersey City, Hudson County, New Jersey (hereinafter referred to as "Landlord"); and the City of Jersey City, a Municipal Corporation, having an address of 280 Grove Street, Jersey City, New Jersey 07302 (hereinafter referred to as "Tenant").

PREAMBLE

Tenant is presently in possession of the Premises described herein. This Lease is intended to continue the existing Landlord-Tenant relationship on the terms provided for herein:

BASIC LEASE PROVISIONS AND DEFINITIONS

In addition to other terms elsewhere defined in this Lease, the following terms whenever used in this Lease shall have only the meanings set forth in this Section, unless such meanings are expressly modified, limited or expanded elsewhere herein.

(1) Premises: The Premises consist of 6,000 square feet located at 46 State Street, Jersey City, Hudson County, New Jersey, identified on the tax maps of the City of Jersey City as Tax Block 8.A, Lot 2018. The Premises are more particularly described on Exhibit 1 attached hereto and made a part hereof.

(2) Commencement Date: The Tenant is presently occupying the Premises; this Lease provides the terms and conditions of Tenant's continued occupation.

(3) Expiration Date: December 31, 2015, unless earlier terminated upon sixty (60) days' written notice to the other party, or unless the term of this Lease shall end sooner under the terms, covenants or conditions of this lease, or pursuant to law.

(4) Term: The Commencement Date through the Expiration Date are referred to herein as the "Term."

(5) Base Rent for the Term: Fifty-Two Thousand Dollars Eight Hundred Dollars ($52,800.00) per annum, payable each month in advance in equal installments of Four Thousand Four Hundred Dollars ($4,400.00).

(6) Additional Rent: Shall be the real property taxes payable on the Premises by the Tenant as invoiced by the Landlord with documentation from the City Tax Assessor. (which in the year 2011 are Seven Thousand Dollars ($7,000.00)). Additional Rent shall also mean the costs of repair of the Premises (except for repair of the roof and major operating systems, which are to be paid by the Landlord) to the extent such costs are not paid by Tenant to the person or entity making such repairs; and the cost of utilities, which shall be payable directly to the applicable utility company as the Premises are separately metered to the extent that such utility payments are not paid directly to the utility company.

(7) Permitted Uses: shall mean a warehouse/garage area to be used by the Jersey City Fire Department for the purpose of storing Tenant's Jersey City Fire Department and Homeland Security equipment, including motor vehicles and any office space or desks associated therewith. The Premises shall not be used for any other purpose.

(8) Designated Broker: N/A

(9) Security Deposit: An amount equal to Seven Thousand Six Hundred Dollars ($7,600.00) which both parties acknowledge has been paid by the Tenant to the Landlord.

(10) Extension Period: This Lease may be extended by up to two (2) one-year terms provided Tenant is not in default and provided Tenant notifies Landlord in writing of Tenant's desire to so extend on terms to be negotiated, for a first extension, at least sixty (60) days prior to the end of the Lease and, for a second extension, at least sixty (60) days' prior to the end of the first extension period. Landlord shall have no obligation to agree to either extension.

WITNESSETH:

For and in consideration of the Premises and the covenants herein contained, and upon the terms and conditions herein set forth, Landlord and Tenant agree as follows:

1. DESCRIPTION. Landlord hereby leases to Tenant, and Tenant hereby hires from Tenant, the Premises as defined in the Basic Lease Provisions and Definitions under the terms and conditions set forth in this Lease.

2. TERM. The Premises are leased for a term from the Commencement Date , and to end at 12:00 midnight on the date which is five (5) years thereafter (the "Expiration Date") , which may be extended in two (2) one-year Extension Periods, as defined in the Basic Lease Provisions and Definitions, provided Tenant is not in default and the parties agree thereto in writing.

3. BASIC RENT. The Tenant shall pay to Landlord during the Term, the Rent as defined in the Basic Lease Provisions and Definitions (the "Basic Rent"), payable in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. The Basic Rent is payable in advance on the first day of each calendar month during the Term in the equal monthly installments. Tenant shall pay the Basic Rent to the Landlord at the Landlord's above-stated address, or at such other place as the Landlord may designate in writing. In the event any payment shall be more than ten (10) days late, the Tenant shall pay Tenant shall pay Basic Rent, plus the sum of $150.00 (the "Late Fee").

4. ADDITIONAL RENT. All sums due from Tenant hereunder, other than the Basic Rent shall be deemed Additional Rent. Any failure by Tenant to pay Additional Rent shall be deemed a failure of Tenant to pay Basic Rent.

5. REAL ESTATE TAXES. The Tenant shall pay to the Landlord the real property taxes due on the Premises as invoiced by the Landlord in accordance with the procedure currently followed by Landlord and Tenant in the tenancy in effect on December 31, 2010.

6. OPERATING AND MAINTENANCE COSTS.

A. Tenant shall, throughout the Term, take good care of the Premises and the fixtures and appurtenances therein, and at Tenant's cost and expense, make all repairs thereto except that Landlord shall be responsible for maintaining the roof and all major systems on the Premises. Tenant agrees to keep the Premises in a clean and sanitary condition and free from trash, flammable material and hazardous materials which Landlord has not specifically permitted Tenant to keep at the Premises. Tenant further agrees to keep the sidewalks and doorways clean and free of obstructions. Notwithstanding anything contained herein to the contrary, Tenant shall not be responsible for any structural repairs unless the need for said repairs is caused by any act or omission of Tenant, Tenant's agents, servants or employees.

B. During the Term, Tenant shall pay directly to the appropriate utility, the gas, electric, heat, water or any other service or utility charge. Landlord shall not be responsible for the disruption of any utility service to the Premises unless the disruption is caused by the Landlord., its members, employees, servants, agents, contractors, invitees or licensees.

C. Any work performed by Tenant on the Premises shall have the prior consent of the Landlord and shall be performed by contractors reasonable acceptable to Landlord prior to the commencement of such work. Tenant must notify Landlord in writing of the necessity of any major repairs to the Premises. All improvements made by Tenant to the Premises, which are so attached to the Premises that they cannot be removed without material injury to the Premises, shall be come the property of Landlord upon expiration or sooner termination of the Term. If Tenant makes improvements at Tenant's expense which are not affixed to the Premises, Tenant may remove any such improvements provided Tenant restores the Premises to its original condition. No later than the last day of the Term, Tenant shall, at Tenant's expense, remove all Tenant's personal property and those improvements made by Tenant which have not become the property of Landlord, including trade fixtures, cabinetwork, movable paneling, partitions and the like; repair all injury done by or in connection with the installation or removal of said property and improvements; and surrender the Premises in as good condition as they were at the

beginning of the Term, reasonable wear and damage by fire, the elements, casualty, or other cause not due to the misuse or neglect by Tenant, Tenant's agents, servants, visitors or licensees excepted. All other property of Tenant remaining on the Premises after the last day of the Term of this Lease shall be conclusively deemed abandoned and may be removed by Landlord at Tenant's expense.

7. USE AND OCCUPANCY. Tenant shall only occupy the Premises according to the Permitted Uses. Tenant shall not use the Premises for training purposes.

8. ENVIRONMENTAL LAWS.

Tenant agrees to comply with all environmental laws and regulations, including but not limited to, the Industrial Site Recovery Act of 1993 (N.J.S.A. 13:1K-6 et seq.) ("ISRA") applicable to the Premises or to the Tenant's use or occupancy thereof. Tenant shall not be permitted to generate, store, manufacture, refine, transport, treat, dispose of, or otherwise allow to be Substances typically used in operating, cleaning or maintaining a municipal firefighting equipment present on or about the Premises, any Hazardous Substances with the sole exception of those substances which are needed for fire-fighting purposes. As used herein, "Hazardous Substances" shall be defined as any "hazardous chemical," "hazardous substance" or similar term as defined in the Comprehensive Environmental Responsibility Compensation and Liability Act, as amended (42 U.S.C. 9601, et seq.), the New Jersey Industrial Site Recovery Act, as amended, (N.J.S.A. 13:1K-6 et seq.), the New Jersey Spill Compensation and Control Act, as amended (N.J.S.A. 58:10-23.11b, et seq.), any rules or regulations promulgated thereunder, or in any other present or future applicable federal, state or local law, rule or regulation dealing with environmental protection.

9. EVENTS OF DEFAULT.

A. An event of default shall be deemed to have occurred:

(i) If Tenant shall fail to pay any installment of Basic Rent or Additional Rent within ten (10) days after same is due and does not pay same together with the Late Fee (as defined in paragraph 3 herein) within thirty (30) days thereafter ;

(ii) If Tenant shall fail to perform any other covenant, condition or agreement within thirty (30) days of its receipt of written notice designating its failure of performance; provided that if any failure cannot reasonably be cured within thirty (30) days then no event of default shall exist;

(iii) If Tenant, or any of Tenant's employees, agents, invitees or licensees, uses the Premises for any illegal purpose(s); or

(iv) If Tenant shall allow the Premises to become vacant, deserted or abandoned; or

(v) If Tenant's interest in this Lease or possession of the Premises shall devolve upon or pass to any person or entity other than a department, division or agency of the City of Jersey City, whether by operation of law or otherwise.

B. Should Tenant be evicted by summary proceedings or otherwise; then, Landlord, may, in additional to any other remedies herein contained or as may be permitted by law, without being liable for prosecution therefore, or for damages, re-enter the Premises and have and again possess and enjoy the same; and re-let the Premises and receiving the rents therefore and apply the same first to the payment of such expenses, reasonable attorneys' fees and costs, as Landlord may have incurred in re-entering and repossessing the same and making such repairs and alterations as may be necessary and second, to the payment of the rents due hereunder. Tenant shall remain liable for such rents as may be in arrears and also the rents as may accrue subsequent to re-entry by Landlord to the extent of the difference between the rents reserved hereunder and the rents, if any, received by Landlord during the remainder of the unexpired term hereof, after deducting the aforementioned expenses, fees and costs; the same to be paid as such deficiencies arise and are ascertained each month. Notwithstanding the foregoing, Landlord has an affirmative duty to mitigate damages by making immediate and on-going good faith efforts to re-let the Premises.

10. DAMAGE TO PREMISES.

A. Repair of Damage. If the Premises shall be damaged by fire or other casualty to the extent that the cost of restoration will not exceed twenty-five percent (25%) of the replacement value of the building in which the Premises are located, then, if the fire damage or other casualty was the fault of the Tenant, Tenant's agents, servants, employees, invitees, visitors or licensees, Tenant shall be responsible for the repair and restoration of the Premises to its condition preceding the damage. The contractors and repair/restoration scope of work will be approved by the Landlord prior to commencement. During any period of Tenant's reparation and restoration, Basic and Additional Rent shall be payable as if said fire or other casualty had not occurred.

If fire or casualty damage to the Premises is not the fault of Tenant, Tenant's agents, servants, employees, invitees, visitors or licensees, but rather the result of an act of nature or resulting from Landlord's acts or omissions (or the acts or omissions of Landlord's members, agents, servants or contractors), then the Landlord shall be required to repair and restore the premises to the extent that the cost of restoration will not exceed twenty-five percent (25%) of the replacement value of the building in which the Premises are located, and Tenant shall pay equitably-reduced Basic Rent for the period of restoration and to the extent to which the Premises (or a portion thereof) are not reasonably usable for the purpose for which they are leased. During restoration, Tenant shall continue to pay the real property taxes and those utilities needed by it to continue its use and operation as a warehouse/office.

B. Termination Option. Anything in subparagraph "A" of this paragraph 10 to the contrary notwithstanding, if the Premises are totally damaged or are rendered wholly un-tenantable, then either party may (not later than sixty (60) days following the damage) give the other party a notice in writing terminating this Lease.

C. Property Loss or Damage. Neither Landlord nor its agents shall be liable to Tenant for any injury or damage to persons or property or interruption of Tenant's business resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the Premises or from the pipes, appliances or plumbing works, street or subsurface or from any other place or by dampness or by any other cause of whatsoever nature unless such injury or damage is a result of Landlord's failure to maintain the roof and/or the Premise's major operating systems; nor shall Landlord or its agents be liable for any such damage caused by other persons in the Premises, unless such persons are Landlord, its members, employees, agents, invitees, licensees or servants. Tenant shall reimburse and commensurate Landlord as Additional Rent within ten (10) days after receiving a statement for all expenditures made by, or damages or fines sustained or incurred by Landlord due to nonperformance or noncompliance with or breach or failure to observe any term, covenant or condition of the lease upon Tenant's part to be kept, observed, performed or complied with. Tenant shall give immediate notice to Landlord in case of fire or accident in the Premises.

11. EMINENT DOMAIN. If Tenant's use of the Premises is materially affected due to the taking by eminent domain of (a) the Premises or any part hereof or any estate therein; or (b) any common areas necessary to Tenant's business at the Premises; then, in either event, this Lease shall terminate on the date when title vests pursuant to such taking. The Basic Rent, shall be apportioned as of said termination date and any Basic Rent paid for any period beyond said date shall be repaid to Tenant. In the event of a partial taking which does not effect a termination of this Lease but does deprive Tenant of the use of a portion of the Premises, there shall either be an abatement or an equitable reduction of the Basic Rent, depending on the period for which and the extent to which the Premises or a portion thereof so taken are not reasonably usable for ths purpose for which they are leased hereunder. Tenant shall not be entitled to any part of the award for such taking or any payment in lieu thereof, but Tenant may file a separate claim against the taking entity for any taking of fixtures and improvements owed by Tenant which have not become Landlord's property, and for moving expenses.

12. INDEMNIFICATION. Tenant shall not do or permit any act or thing to be done upon the Premises which may subject Landlord to any liability or responsibility for injury, damages to persons or property or to any liability by reason of any violation of law or of any legal requirement of public authority, but shall exercise such control over the Premises as to protect Landlord against such liability. Tenant agrees to indemnify and save harmless the

Landlord from and against any loss, liability or damage suffered or incurred as a result of the negligent acts or omissions or the misconduct of Tenant or Tenant's employees, agents and servants.

13. NON-LIABILITY OF LANDLORD. Landlord shall not be liable for (and Tenant shall make no claim against Landlord for) any property damage which or personal injury which may be sustained by Tenant or any other person, as a consequence of te failure, breakage, leakage, inadequacy, defect or obstruction of the water, plumbing, steam, sewer, waste or soil pipes, roof, drains, leader, gutters, valleys, down spouts, or the like or of the electrical, gas, power, conveyor, refrigeration, sprinkler, air conditioning or heating systems, elevators or hoisting equipment; or by reason of the elements; or resulting from the carelessness, negligence or improper conduct on the part of any other tenant of Landlord or ay other tenant's agents, employees, guests, licensees, invitees, subtenants, assignees or successors; or attributable to any interference with interruption or failure of any services or utilities furnished or supplied by Landlord. Tenant shall give Landlord notice of the occurrence of any event set forth in this paragraph 15 promptly upon becoming aware of same.

14. ASSIGNMENT AND SUB-LETTING. Tenant shall not assign this Lease nor sublet it to any persons or entities. Notwithstanding the foregoing, since Tenant is a subdivision, authority, body, agency, instrumentality or other entity created and/or controlled pursuant to the laws of the State of New Jersey and the ordinances and policies of the City of Jersey City, and/or may also be controlled by the laws, regulations or rules of an intra-state or federal government entity ("Governmental Entity"), the provisions of this paragraph shall not apply to the transfer of any of Tenant's rights to use and occupy the Premises to any other Governmental Entity; however, upon such transfer the provisions of this Lease and Tenant's rights herein shall apply to the Governmental Entity which shall replace to succeed to similar public functions, responsibilities and areas of authority as Tenant, provided that the Tenant shall utilize the premises in a manner substantially similar to Tenant; and shall not utilize the Premises in any manner which, in Landlord's judgment would impair the use or reputation of the Premises

15. CERTIFICATES. From time to time, within ten (10) days following a request by the Landlord, Tenant shall deliver to the Landlord a written statement executed and acknowledged by Tenant, in form satisfactory to Landlord or such mortgage (i) stating that this Lease is then in full force and effect and has not been modified (or, if modified, setting forth all modifications), (ii) setting forth the date to which the Basic Rent, Additional Rent, taxes, utility charges and any other charges hereunder have been paid, together with the amount of fixed base monthly Basic Rent then payable, (iii) stating whether or not, to the best knowledge of Tenant, the Landlord is in default under this Lease, and, if Landlord is in default, setting forth the specific nature of all such defaults, (iv) stating the amount of the security deposit under this Lease, (v) stating whether any Governmental Entities are using the Premises (as contemplated by paragraph 14 of this Lease), (vi0 stating the address of the Tenant to which all notices and communications under the Lease shall be sent, the Commencement Date and the Expiration Date and (vii) as to any other matters reasonably requested by the Landlord. Tenant acknowledges that any statement delivered pursuant to this subparagraph may be relied upon by any purchaser or owner of the premises, or by any holder of a Mortgage, or by any assignee of any holder of a Mortgage.

16. RIGHT TO INSPECT AND REPAIR. Landlord may enter the Premises at any reasonable time on reasonable notice to Tenant (except that no notice need be given in case of emergency) for the purpose of inspection or the making of such repairs, replacement or additions, in, to and about the Premises or the Building, as Landlord deems necessary or desirable.

17. RIGHT TO CURE TENANT'S BREACH. If Tenant breaches any covenant or condition of this Lease, Landlord may, on five (5) days' written notice to Tenant (except that no notice shall be given in case of emergency), cure such breach at the expense of Tenant and seek full recompense from Tenant. Notwithstanding the foregoing, Landlord shall have no obligation whatsoever to cure said Tenant breach but may do so at Landlord's sole discretion.

18. RIGHT TO SHOW PREMISES. Landlord may show the Premises to prospective purchasers and mortgagees; and, during the six (6) months prior to termination of this Lease as extended by the exercise of any renewal option hereunder, to prospective Tenants, during

business hours on reasonable notice to Tenant.

19. INSURANCE.

A. Tenant's Insurance. Tenant is a municipal corporation of the State of New Jersey. Pursuant to the authority provided in New Jersey Statutes Annotated 40A:10-1 *et seq.* Tenant established a self-insurance program to provide workers' compensation, general liability and automobile liability protection for the City's operations. The details of this self-insurance program are set forth in Exhibit 2 attached hereto and also provide for insurance over the self-insurance limit.

B. Landlord's Insurance. Landlord covenants and agrees it has insurance on the Premises and that it will continue to maintain same throughout the Term in an amount equal to full replacement value sufficient to avoid co-insurance and public liability insurance in such reasonable amounts but in no event less than Two Million Dollars ($2,000,000.00) single limit with such reasonable deductible as required by any mortgage or, if there is no mortgage, as would be carried by a prudent owner of a similar building in the area. Landlord may, but shall not be obligated to, take out and carry any other forms of insurance as it or the mortgagee or ground Landlord (if any) of Landlord may require or reasonably determine available.

20. QUIET ENJOYMENT. Landlord covenants that if, and so long as, Tenant pays the Basic Rent, as herein provided and performs the covenants hereof, Landlord shall do nothing to affect Tenant's right to peaceably and quietly have, hold and enjoy the Premises for the Term herein mentioned, subject to the provisions of this Lease and to any mortgage or deed of trust to which this Lease shall be subordinate.

21. NO OTHER REPRESENTATIONS. Tenant is presently occupying the premises under an expiring lease and neither party has made any new representations or promises with respect to the Premises other than what is set forth herein.

22. RULES OF CONSTRUCTION/APPLICABLE LAW. Any table of contents, captions, headings and titles in this Lease are solely for convenience of reference and shall not affect its interpretations. This Lease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Lease to be drafted. Each covenant, agreement, obligation or other provision of this Lease on either party's part to be performed, shall be deemed and construed as a separate and independent covenant of Tenant, not dependent on any other provision of this Lease. All terms and words used in this Lease, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require. This Lease shall be governed and construed in accordance with the laws of the State of New Jersey and by the State Courts of New Jersey. If any of the provisions of this Lease, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

23. BROKERAGE. Tenant and Landlord warrant and represent to each other neither has dealt with any broker or brokers regarding the negotiation of the within Lease.

24. NOTICES. Any notice by either party to the other shall be in writing and shall be deemed to have been duly given only if delivered personally or sent by a recognized overnight courier service to sent by registered mail or certified mail in a postpaid envelope, return receipt requested, addressed, if to Tenant, at the above described Premises; if to Landlord, at Landlord's address as set forth above; or, to either at such other address as Tenant or Landlord, respectively, may designate in writing. Notice shall be deemed to have been duly given if delivered personally, or sent by a recognized overnight courier service on delivery thereof, and if mail, certified mail, return receipt requested.

25. SIGNAGE. Tenant shall have the right to have its name included on any monument on the exterior of the Premises. Tenant shall also be permitted to maintain a sign upon the entrance to the Premises in accordance with Landlord's standards for building signage. Subject to municipal approvals and Landlord's prior consent, Tenant shall also have the right to

place its name at the entrance of the Premises. The signage presently in place may remain but Landlord reserves the right to approve the size and placement of any new signage.

26. HOLDOVER. If Tenant shall hold over after the expiration of the term of this Lease or any extensions hereof, Tenant shall be deemed to be occupying the Premises as a Tenant from month-to-month, which tenancy may be terminated as provided by New Jersey state law in an action for possession of the premises. During such tenancy, Landlord and Tenant agree that Tenant will pay to Landlord the Basic Rent in effect on the Expiration Date plus all other sums due hereunder, plus an additional five percent (5%). Tenant shall continue to be bound by all of the terms, covenants and conditions contained in this Lease.

27. TENANT IMPROVEMENTS, ALTERATIONS and INSTALLATIONS: All fixtures, equipment, improvements, alterations, installations which are attached to the Premises, and any additions and appurtenances made by Tenant to the Premises shall become the property of Landlord upon installation unless Landlord shall have previously granted permission in writing for Tenant to remove same. Not later than the last day of the Term, Tenant shall, at its expense, remove from the Premises all of its personal property. Tenant, at its sole cost and expense, shall repair injury done by or in connection with the installation or removal of such improvements. Any equipment, fixtures, goods or other property of Tenant, not removed by Tenant upon the termination of this Lease, or upon any quitting, vacating or abandonment of the Premises by Tenant, or upon Tenant's eviction, shall be considered as abandoned and Landlord shall have the right, without any notice to Tenant, to sell or otherwise dispose of the same, at the expense of Tenant, and shall not be accountable to Tenant for any part of the proceeds of such sale, if any. Landlord may have any such property stored at Tenant's risk and expense.

28. CONSTRUCTION LIEN. Tenant shall not do or cause anything to be done whereby the Premises may be encumbered by a construction lien. If any such lien is filed against the Premises as a result of additions; alterations, repairs, installations, improvements or any other work or act of Tenant, Tenant shall discharge or bond same within fifteen (15) days from the date of the filing of the lien. If Tenant shall fail to timely discharge or bond the lien, Landlord may bond or pay lien or claim for the account of Tenant without inquiring into the validity of the lien or claim and Tenant shall reimburse Landlord upon demand.

29. RULES AND REGULATIONS. Tenant covenants and agrees that Tenant will faithfully observe and comply with the rules and regulations as Landlord hereafter at any time or from time to time may communicate in writing to Tenant, and which, in the reasonable judgment of Landlord, shall be necessary or desirable for the reputation, safety, care or appearance of the Premises or the preservation of good order therein.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

WITNESS:

_____

Landlord
18 ASH STREET REALTY, LLC

BY:_____
PETER GARGIULO
MANAGING MEMBER

WITNESS:

_____
ROBERT BYRNE
CITY CLERK

Tenant
CITY OF JERSEY CITY

BY:_____
JOHN KELLY
BUSINESS ADMINISTRATOR

Ordinance of the City of Jersey City, N.J.

ORDINANCE NO. Ord. 11-015

TITLE: 3.D. JAN 2 6 2011 4.D. FEB 0 9 2011

Ordinance authorizing agreement between the City of Jersey City, as lessee, and 18 Ash Street Realty, LLC., as lessor, for Fire and Emergency storage space in the premises located at 46 State Street, Jersey City, New Jersey.

RECORD OF COUNCIL VOTE ON INTRODUCTION JAN 2 6 2011 8-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING FEB 0 9 2011											
Councilperson FULOP moved, seconded by Councilperson SOTTOLANO to close P.H. 7-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓						
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson____ moved to amend* Ordinance, seconded by Councilperson____ & adopted____											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
DONNELLY				FULOP							
LOPEZ				RICHARDSON				VELAZQUEZ			

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE FEB 0 9 2011 7-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓						
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on JAN 2 6 2011

Adopted on second and final reading after hearing on FEB 0 9 2011

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on FEB 0 9 2011

Robert Byrne, City Clerk

*Amendment(s):

APPROVED:

Peter M. Brennan, Council President

Date: FEB 0 9 2011

APPROVED:

Jeramiah T. Healy, Mayor

Date FEB 1 5 2011

Date to Mayor FEB 1 0 2011

City Clerk File No. Ord. 11-018

Agenda No. 3.G 1st Reading

Agenda No. 4.E. 2nd Reading & Final Passage

ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 11-018

TITLE:

ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING UPDATED AMENDMENTS TO THE LAND DEVELOPMENT ORDINANCE PERTAINING TO MURALS

WHEREAS, the Municipal Council, pursuant to NJSA 40:55D-62, may adopt or amend a zoning ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon; and

WHEREAS, the Municipal Council adopted the Land Development Ordinance, Chapter 345 of the Code of the City of Jersey City, on April 11, 2001, (Ordinance No. 01-042), and several amendments since then; and

WHEREAS, on January 27, 2010, the Municipal Council did adopt Ordinance #10-007 amending Article I, Definitions of the Land Development Ordinance to add a definition of Murals and also amending Article V-60 Supplementary Zoning Regulations to include standards for murals and a Certificate of Mural Approval form; and

WHEREAS, the above referenced amendments were recommended by the Planning Board as a means of facilitating the installation of mural art by distinguishing such artwork from signs otherwise regulated by the Division of Zoning; and

WHEREAS, the Division of Planning, the Division of Cultural Affairs and the Division of Zoning have recently undertaken a careful review of the previously adopted amendments pertaining to mural art and jointly recommend the proposed updated amendments; and

WHEREAS, the Planning Board will review the newly proposed updated amendments and consider its recommendation to the Municipal Council at its meeting of February 8, 2011; and

WHEREAS, the amendments to the Land Development Ordinance are attached hereto and made a part hereof, and are available for public inspection at the Office of the City Clerk, City Hall, 280 Grove Street, Jersey City, NJ;

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that the Land Development Ordinance, be and hereby is amended as per the attached document;

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.
E. The City Planning Division is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the Hudson County Planning board and to all other persons entitled thereto pursuant to N.J.S. 40:55D-15 and N.J.S. 40:55D-63 (if required). Upon the adoption of this Ordinance after public hearing thereon, the City Clerk is directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Hudson County Planning Board as required by N.J.S. 40:55D-16. The clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Municipal Tax Assessor as required by N.J.S. 40:49-2.1.

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 ☐

Date Submitted to B.A._____

ORDINANCE FACT SHEET

1. **Full Title of Ordinance:**

   ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING UPDATED AMENDMENTS TO THE LAND DEVELOPMENT ORDINANCE PERTAINING TO MURALS

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 Plan Proposed in the Ordinance:**

   This Ordinance will amend the Land Development Ordinance (Zoning Ordinance) to update the definition and standards for murals.

4. **Reasons (Need) for the Proposed Program, Project, etc.:**

   The subject updated amendments reflect the joint considerations of the Division of Planning, the Division of Cultural Affairs and the Division of Zoning and will better facilitate the installation of Mural Art while continuing to distinguish such art from signage otherwise regulated under Chapter 34568 of the Land Development Ordinance.

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

   Aesthetic enhancement of the public realmthrough installation of Mural Art

6. **Cost of Proposed Plan, etc.:**
   None

7. **Date Proposed Plan will commence:**
   Upon approval

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

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

   Carl Czaplicki, Director, Dept of HEDC
   Robert D. Cotter, City Planning Director
   Nick Taylor, Acting Director, Division of Zoning
   Maryanne Kelleher, Director, Division of Cultural Affairs

10. **Additional Comments:** None

I Certify that all the Facts Presented Herein are Accurate.

Robert D Cotter
Division Director

JAN 18, 2011
Date

[signature]
Deputy **Department Director Signature**

JAN 19, 2011
Date

G:\Land Development Ordinance Amendments\Article V\Supplementary Zoning Regs\2011 Amended Murals\Amended_Murals_FAC.doc

SUMMARY STATEMENT

ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING UPDATED AMENDMENTS TO THE LAND DEVELOPMENT ORDINANCE PERTAINING TO MURALS

This Ordinance will amend the Land Development Ordinance (Zoning Ordinance) to update the definition and standards for Murals

Material indicated by strikethrough ~~like this~~ is existing material that is intended to be deleted. Material indicated by bold italic ***like this*** is new material that is intended to be enacted:

Section 345-6 Definitions

Mural: an art installation***, visible to the public right-of-way, consisting of paint, and adhered directly to*** ~~on~~ the wall of a building or structure

§345-60 Supplementary Zoning Regulations

T. Murals

~~***1. Design standards:***~~

~~***a. Murals must be adhered directly to the structure and project no more than four (4) inches, consisting of paint, canvas, wood, tiles, metal or glass with no electric, electronic, or lighted elements.***~~

~~***b. Murals shall be reversible and shall not permanently damage the façade of the structure being used.***~~

~~***c. Murals shall not advance or promote any business product, activity, or service, and thus shall not contain advertising nor logo insignias with the exception of a sponsorship signature which may be a maximum of 1% of the mural area or 10 sf, whichever is less.***~~

~~***d. Murals shall not provide direct or indirect profit to any party other than the contributing artist(s).***~~

~~***e. Murals shall not depict illegal activity.***~~

~~***f. Murals in historic districts and on buildings listed on, or eligible to be listed on, the national, state, or municipal historic registry, are subject to review and approval by the Historic Preservation Commission.***~~

~~***2. Procedures***~~

~~***a. Prior to the installation of a Mural, as defined, a sketch of the proposed artwork is to be provided to the Zoning Officer and the Division of City Planning.***~~

~~***b. If within a historic district or on, eligible to be listed on the national, state, or municipal historic registry, a sketch of the proposed artwork is to be provided to the Historic Preservation Commission.***~~

~~***c. Division of City Planning, and Historic Preservation Commission when required, will review and provide a Certificate of Mural Approval to the Zoning Officer, confirming that the proposal is a mural and not a sign. A Certificate of Mural Approval may then be signed by the Zoning Officer.***~~

1. ***Murals that advance or promote a business product and/or activity contained within the building to which it is adhered, or the primary purpose of which is to advertise any product and/or business activity, shall be subject to municipal commercial signage regulation under Section 345-68.***

2. ***Murals proposed to be adhered to buildings or structures located within a designated Historic District, or designated as a municipal, state and/or national landmark shall be referred to the Jersey City Historic Preservation Commission for review and recommendation prior to installation. Such review recommendations shall be limited to the size of the installation and/or the appropriateness of the structure for the placement of art, and shall not be content-based.***

3. ***Murals that are not painted directly on the host structure and thus require the installation of panels, canvases, or other means of display may require review and approval by the Division of Zoning and/or the Office of Construction Code prior to installation.***

~~JERSEY CITY~~
~~DIVISION OF CITY PLANNING~~
~~And~~
~~DIVISION OF ZONING~~

~~CERTIFICATE OF MURAL APPROVAL~~

~~**Address:**~~	~~**Brief Description:**~~

~~**A Certificate of Mural Approval is hereby granted for the attached mural.**~~

~~This Certificate of Mural Approval is issued only for the attached mural draft. Issuance of this Certificate confirms that the installation proposed does not qualify as signage, and meets the definition of a *mural* in City Code. By accepting this Certificate of Mural Approval, the applicant agrees to notify the Division of City Planning and Division of Zoning if the actual mural or site conditions change. The Division of City Planning and Division of Zoning reserve the right to amend or revoke this Certificate, upon written notice to the applicant, in the event that the actual mural or site conditions are materially different from those described on the attached or disclosed during the review process.~~

~~Division of City Planning / Date~~ ~~Division of Zoning / Date~~

~~Historic Preservation Commission / Date~~

Ordinance of the City of Jersey City, N.J.

ORDINANCE NO. Ord. 11-018

TITLE: 3.G. JAN 2 6 2011 4.E. FEB 0 9 2011

Ordinance of the Municipal Council of the City of Jersey City adopting updated amendments to the Land Development Ordinance pertaining to murals.

RECORD OF COUNCIL VOTE ON INTRODUCTION JAN 2 6 2011 8-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING FEB 0 9 2011											
Councilperson GAUGHAN moved, seconded by Councilperson VELAZQUEZ to close P.H. 7-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓						
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote Jayson Burg N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson _____ moved to amend* Ordinance, seconded by Councilperson _____ & adopted _____											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
DONNELLY				FULOP							
LOPEZ				RICHARDSON				VELAZQUEZ			

✓ Indicates Vote N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE FEB 0 9 2011 7-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
DONNELLY	✓			FULOP	✓						
LOPEZ	✓			RICHARDSON	ABSENT			VELAZQUEZ	✓		

✓ Indicates Vote N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on JAN 2 6 2011

Adopted on second and final reading after hearing on FEB 0 9 2011

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on FEB 0 9 2011

Sean J. Callaghan, Deputy
Robert Byme, City Clerk

*Amendment(s):

APPROVED:

Peter M. Brennan
Peter M. Brennan, Council President

Date: FEB 0 9 2011

APPROVED:

Jerramiah T. Healy, Mayor

Date FEB 1 5 2011

Date to Mayor FEB 1 0 2011