

City Clerk File No. Ord. 12-140

Agenda No. 3.A 1st Reading

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



# ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12=140

TITLE:

**AN ORDINANCE OF THE CITY OF JERSEY CITY, IN THE COUNTY OF HUDSON, NEW JERSEY, PROVIDING FOR A SPECIAL EMERGENCY APPROPRIATION OF \$9,500,000 FOR THE PAYMENT OF CONTRACTUALLY REQUIRED SEVERANCE LIABILITIES RESULTING FROM THE RETIREMENT OF CITY EMPLOYEES**

WHEREAS, N.J.S.A. 40A:4-53 provides that a municipality may adopt an ordinance providing for a special emergency appropriation for contractually required severance liabilities resulting from the retirement of City employees; and

WHEREAS, the Municipal Council of the City of Jersey City, in the County of Hudson, New Jersey (the "City") has determined to authorize a special emergency appropriation to provide for the payment of contractually required severance liabilities resulting from the retirement of City employees; and

WHEREAS, the estimated cost of the payment of the required severance liabilities is \$9,500,000; NOW THEREFORE

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY, IN THE COUNTY OF HUDSON, NEW JERSEY, AS FOLLOWS:

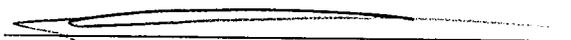
Section 1. Pursuant to N.J.S.A. 40A:4-53, the sum of \$9,500,000 is hereby appropriated for the payment by the City of contractually required severance liabilities resulting from the retirement of City employees, and the same shall be deemed a special emergency appropriation as defined and provided for in N.J.S.A. 40A:4-55.

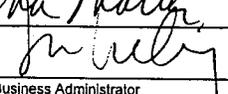
Section 2. The portion of the authorization financed shall be provided for in succeeding annual budgets by the inclusion of at least one fifth of the amount authorized by this ordinance and financed and as provided in N.J.S.A. 40A:4-55.

Section 3. A copy of this ordinance shall be filed with the Director of the Division of Local Government Services.

Section 4. This ordinance shall take effect upon final passage and publication as required by law.

APPROVED AS TO LEGAL FORM

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

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

Certification Required   
Not Required

City Clerk File No. Ord. 12-141

Agenda No. 3.B 1st Reading

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



# ORDINANCE OF JERSEY CITY, N.J.

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

## CITY ORDINANCE 12-141

TITLE: **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO THE JOURNAL SQUARE 2060 REDEVELOPMENT PLAN**

**WHEREAS**, the Municipal Council of the City of Jersey City, adopted the Journal Square 2060 Redevelopment Plan at its meeting of July 14, 2010, Ordinance #10-103; and

**WHEREAS**, the Municipal Council seeks to advance and promote high quality new construction on un-built lots within the Redevelopment Plan and to promote higher densities near mass transit facilities, as is recommended by the Jersey City Master Plan; and

**WHEREAS**, a copy of the amended text is attached hereto and made a part hereof, and is available for public inspection at the Offices of the City Clerk, City Hall, 280 Grove Street, Jersey City, NJ; and

**WHEREAS**, the following amendments to the Journal Square 2060 Redevelopment Plan have been reviewed by the Jersey City Planning Board at its meeting of August 21, 2012; and

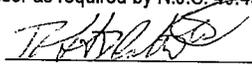
**WHEREAS**, the Planning Board voted to recommend adoption of these amendments by the Municipal Council; and

**WHEREAS**, the attached amendment is consistent with Resolution 12-574 adopted July 18, 2012, authorizing settlement of litigation entitled Robinhood Plaza, Inc. International Chain Enrico Corp., and Avner Netter v. City Council of City of Jersey City, Docket No. HUD-1-5825-10; and

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Jersey City that the recommended amendments to the Journal Square 2060 Redevelopment Plan be, and hereby are, adopted.

### BE IT FURTHER ORDAINED THAT:

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

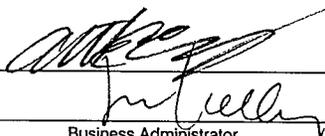
 Robert D. Cotter, PP, AICP, Director of Planning

APPROVED AS TO LEGAL FORM

  
Corporation Counsel

APPROVED:

APPROVED:

  
Business Administrator

Certification Required

Not Required

**ORDINANCE FACT SHEET**

1. Full Title of Ordinance/Resolution/Cooperation Agreement:

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO THE JOURNAL SQUARE 2060 REDEVELOPMENT PLAN**

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

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

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

The amendment creates a new zone within the Journal Square 2060 Redevelopment Plan which increases the building height limit and provides for an additional building height bonus for the provision of land to the City for a public park. The amendment also adds medical office as a principal use to Bergen Avenue.

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

To settle a legal action by Robinhood Plaza Inc., et. al. and obtain land for a public park in the Journal Square area.

5. Anticipated Benefits to the Community:

Development of attractive new construction in a transit accessible location and obtain land for a future park.

6. Cost of Proposed Program, Project, etc.:

No expense to the city. All work done by in house staff.

7. Date Proposed Program or Project will commence:

Upon approval of the redevelopment plan amendment.

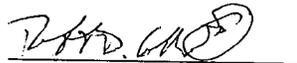
8. Anticipated Completion Date: N/A

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

Robert D. Cotter, Director, City Planning                      547-5050  
Jeff Wenger, City Planning    547-5453

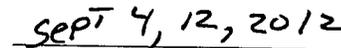
10. Additional Comments: None

I Certify that all the Facts Presented Herein are Accurate.

  
\_\_\_\_\_  
Division Director

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Deputy Department Director Signature

  
\_\_\_\_\_  
Date

## **SUMMARY STATEMENT**

### **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO THE JOURNAL SQUARE 2060 REDEVELOPMENT PLAN**

The amendment will create a new "Zone 11" within the Journal Square 2060 Redevelopment Plan. The new Zone will increase the permitted building height along Summit Avenue across from the Journal Square Transportation Center from 12 to 25 stories and provide for an additional building height bonus of 17 stories (for a total of 42 stories) tied to the provision of nearly an acre of land for future use as a public park.

This amendment is consistent with Resolution 12-574 which was adopted on July 18, 2012 authorizing settlement of litigation by the property owner in the proposed Zone 11 against the City.

The amendment also adds "medical office" as a permitted use in Zone 8 / Bergen Square.

# PROPOSED AMENDMENTS TO THE JOURNAL SQUARE 2060 REDEVELOPMENT PLAN

PRESENTED TO THE JERSEY CITY PLANNING BOARD ON AUGUST 21, 2012

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Text that is deleted is in strike-through ~~like this~~.

Text that is added is in bold **like this**.

## I) INTRODUCTION

On November 25, 2008 the Jersey City Municipal Council determined, by Resolution # 08-879, the *Greater Journal Square Study Area* to be an "area in need of rehabilitation," pursuant to the New Jersey Local Housing and Redevelopment Law (N.J.S.A. 40A:12A-1 et seq.). Previously, portions of the Journal Square area were also declared to be an "area in need of redevelopment," called the *Journal Square Redevelopment Plan* originally adopted in 1974 and amended several times since.

This redevelopment plan focuses on Journal Square, the PATH rail station and bus depot, as well as the surrounding neighborhoods within walking distance, comprising an area of approximately 211 acres, 57 city blocks, and approximately 1600 individual parcels.

The purpose of the Journal Square 2060 Plan is to foster the redevelopment of Journal Square, Jersey City's central business district, by providing for transit oriented development of new housing, offices, commercial, and public open spaces within walking distance to the Square and transit facilities, returning Journal Square to a flourishing central business and shopping destination.

Since the mid 1950's, various plans in and around Journal Square were adopted by the Jersey City Municipal Council to address the adjacent air-rights development over the PATH rail cut and various development parcels in the vicinity of the Journal Square Transportation Center. Then in 2007, *Vision Journal Square* was prepared by A. Nelessen Associates, Inc. (ANA) and Dean Marchetto Architects, PC (DMA) in coordination the Jersey City Redevelopment Agency (JCRA) and the City of Jersey City. The process included multiple charrettes and public meetings, producing a comprehensive vision for the greater Journal Square area.

The Jersey City Master Plan lists several specific objectives and recommended actions which guide the standards and requirements for this plan. More specifically, the award

winning Jersey City Master Plan Circulation Element, *Jersey City Mobility 2050*, recommends that the City:

*Develop and implement smart growth strategies that locate new residential development within walking distance of bus stops and passenger rail stations, with the highest density zones located within walking distance of passenger rail stations; that mixes residential land use with commercial land use;*

*Create meaningful public spaces that facilitate integration of the built environment with arterials and major transit routes;*

*Requirements to provide bicycle amenities for building users, such as interior bicycle storage facilities for residential buildings that are accessible without stairs or tight corners, and bicycle racks and employee showers for commercial buildings;*

*Parking space requirement maximums that reduce the number of permitted parking spaces in development near fixed rail transit stations in proportion to distance and inversely proportional to the intensity of development.*

In addition, the NJ Department of Transportation and NJ Transit created the "Transit Village Initiative" to recognize municipalities that have demonstrated a commitment to revitalizing and redeveloping areas within walking distance of rail or bus facilities into compact, mixed-use neighborhoods that are consistent with Smart Growth principles. In 2005, the Journal Square area received designation as a Transit Village by an inter-agency Transit Village Task Force.

It now appears appropriate for the City to take a more pro-active approach to redevelopment in this Area, so as to bring the Area into greater compliance with the recommendations of the Master Plan. The Master Plan calls for "station areas" around Jersey City's mass transit facilities to be up-zoned to include higher density residential, neighborhood retail, restaurants and other uses compatible with a mixed use transit oriented station area. In addition, parking requirements are to be reduced "to capitalize on the availability of high quality mass transit" and to increase building coverage, floor-area-ratios, and residential density, which can be supported near transit facilities.

As Jersey City enters the 21st century, we wish to continue developing in a sustainable direction. This means focusing future development to areas where mass transit is available, reducing parking to limit traffic congestion and effects on air quality, requiring bicycle parking and wider sidewalks to limit automobile use and promote alternative modes, requiring retail uses along pedestrian corridors to create an enjoyable and safe neighborhood environment, concentrating high density high-rise development along the major thoroughfares and immediately adjacent to mass transit facilities, preserving the

most distinguished historic structures, and provide for design guidelines so that new development sits comfortably next to the historic fabric of this area.

Journal Square and its surrounding neighborhoods are not a blank slate. The existing physical structure of the Area is extremely varied. Building types range from detached two-family homes with generous front yards, to 4 to 6 story apartment buildings, office buildings, and commercial uses. This variety of uses and building types are all interwoven at a fine scale. Some streets are quiet and narrow, while others have intensive retail uses. This diversity need not inhibit the City from drafting new development guidelines. This redevelopment plan balances the need for new development at higher densities with the existing context of diverse and varied neighborhoods. To do this, this plan employs an approach to development that requires higher density projects to assemble sufficient development sites to accommodate building designs and forms that can reasonably fit into its surroundings while providing improved infrastructure. The Plan employs the use of building setbacks, sidewalk widening, open space and plaza provisions, contextual yard requirements, required retail uses, parking limitations and bicycle parking requirements, green building requirements, and design guidelines to assure that future development contributes to the sustainable future of Journal Square.

## II) BOUNDARIES

- A) A map of the boundary, entitled, *Map 1: Boundary Map*, dated July 8, 2010 is attached and shall govern the boundaries of this redevelopment plan.
- B) The boundary of the Journal Square 2060 plan omits land on Blocks 593.1 and 628.1 which was authorized as part of the Greater Journal Square Study Area (Resolution 08-879). As this site has already been redeveloped under the St John's Redevelopment Plan and no substantive change to this site is currently contemplated, this area will not be included as part of the Journal Square 2060 Plan.
- C) The boundary of the Journal Square 2060 plan also omits land on Block 631.1 and portions of Block 571 and 530 which are part of the Bergen Arches right-of-way and which were authorized as part of the Greater Journal Square Study Area (Resolution 08-879).

## III) REDEVELOPMENT PLAN OBJECTIVES

Renewal activities for the Journal Square 2060 plan area will be undertaken in conformity with, and will be designed to meet, the following objectives of the Redevelopment Plan:

- 1) Re-establish Journal Square as a Jersey City's primary central business district and activity center.
- 2) Make sustainability a theme of future development and redevelopment that guides land use and transportation decisions.
- 3) Integrate open space into the Area by incorporating a system of parks, plazas, and natural amenities.
- 4) Promote a pattern of mixed and multiple-use development. New buildings within the Area should appropriately combine residential, commercial, and entertainment uses and encourage a balance of jobs-to-housing.

- 5) Make walking and biking an easy, safe, desirable, and convenient mode of transport.
- 6) Encourage local quality retail within the greater Journal Square area.
- 7) Reduce automobile dependency by encouraging high density development in close proximity to mass transit with low automobile parking ratios and with bicycle parking requirements.
- 8) Provide for urban amenities such as transit, housing variety, open space, and entertainment that will attract new employers and a range of new residents to the area while sustaining existing neighborhoods.
- 9) Encourage the adaptive reuse of existing structures.
- 10) Encourage buildings to meet or exceed the US Green Building Council's LEED (Leadership in Energy and Environmental Design) Certification or equivalent.
- 11) The removal of vacated, deteriorated and obsolete structures.
- 12) The overall improvement of traffic circulation through the development of new and improved vehicular and pedestrian circulation systems which provide for separation of vehicular and pedestrian traffic and the maximum use of public transportation.
- 13) Coordination of redevelopment activities, reinforcing already existing adjacent renewal programs and in accordance with the Master Plan for the City overall.
- 14) Provide for the conservation and preservation of select structures with historic or architectural significance, and provide opportunity for adaptive reuse for future generations.
- 15) Encourage the private sector to consolidate development parcels to allow for sufficient building setbacks providing, light and air to the street and adjacent properties.
- 16) Provide for redevelopment without public acquisition or relocation of residents and business concerns.
- 17) Provide for an active "front door" plaza entry way where Magnolia Avenue accesses the Journal Square PATH station, at the existing kiss-and-ride area.
- 18) To promote balanced development in accordance with applicable State laws and City requirements regarding affordable housing.
- 19) Creation of major new employment, housing, educational, recreational, commercial and retail opportunities for the residents of Jersey City.
- 20) Coordinate redevelopment activities to provide a uniform and consistent attack on blighted, dilapidated, and obsolete structures within the Area.
- 21) To promote the principles of "Smart Growth" and "Transit Village" development, including a variety of housing choices, providing wider sidewalks, minimize automobile use by maximizing the appeal of mass transit, encourage reduced parking and shared use parking solutions, and creating a livable community with convenient access to commercial facilities.
- 22) Maintain and improve pedestrian access to the Journal Square PATH Station from the surrounding communities.
- 23) To maximize the use of rooftop open space for recreation and/or green roofs.
- 24) Utilize setbacks, architectural design elements, and building massing regulation to maintained light and air to the street and adjacent properties.

- 25) All structures within the project area shall be designed and maintained so as to improve the visual impact of the Jersey City skyline as viewed from within and beyond the City's borders.
- 26) Provide for new transport systems such as a streetcar along Kennedy Blvd. and Bergen Avenues and a Bus Rapid Transit system connecting to Route 440.

#### IV) GENERAL ADMINISTRATIVE PROVISIONS

- A) No building shall be constructed over public rights-of-way in the project area with the exception of freestanding structures ancillary to public plazas and/or pedestrian walkways, which shall be subject to review by the Planning Board.
- B) Prior to commencement of construction, site plans for the construction and/or rehabilitation of improvements to the Area shall be submitted by the developer to the Planning Board of the City of Jersey City for review and approval so that compliance of such plans with the redevelopment objectives can be determined. Site plan review shall be conducted by the Planning Board pursuant to NJSA 40:55D-1 et. seq. Applications may be submitted for the entire project or in any number of phases.
- C) As part of any site plan approval, the Planning Board may require a developer to furnish performance guarantees pursuant to NJSA 40:55D-53 et seq. Such performance guarantees shall be in favor of the City in a form approved by the Jersey City Corporation Counsel. The amount of any such performance guarantees shall be determined by the City Engineer and shall be sufficient to assure completion of on and off site improvements within one (1) year of final site plan approval.
- D) Split zoned development sites:
  - 1) For any consolidated development site which overlaps multiple zone districts, the zone that covers the largest portion of the site shall govern the entire development site. Zone 6 and 7 are excluded from this split zone provision. All property in Zone 6 or 7 must be developed under the provisions of that zone.
- E) All traffic impact studies shall incorporate, as part of the study, all projects approved or proposed in the immediate area. A listing of the projects may be obtained from the Division of City Planning.
- F) No use or reuse shall be permitted, which, when conducted under proper safeguards, will produce corrosive, toxic or noxious fume, glare, electromagnetic disturbances, radiation, smoke, cinders, odors, dust or waste, undue noise or vibration (60 decibels), or other objectionable features so as to be detrimental to the public health, safety or general welfare.
- G) All residential redevelopment proposals and construction plans shall meet or exceed applicable FHA minimum room size requirements prior to approval by the Planning Board.
- H) The provisions of this plan specifying the redevelopment of the project area and the requirements and restrictions with respect thereto shall be in effect for a period of fifty (50) years from the date of approval of this plan by the City Council of the City of Jersey City, provided however that any development or redevelopment projects that are commenced and/or completed within said fifty (50) year period shall be deemed to comply with all applicable laws, so long as they comply with the provisions of this Redevelopment Plan. At the end of this fifty (50) year period, the zoning regulations contained herein shall be incorporated into the zoning ordinance of the City of Jersey City in accordance with the appropriate State statutes.

I) Any subdivision of lots and parcels of land within the Redevelopment Area shall be in accordance with the requirements of this plan and the Land Development Ordinance (LDO) of Jersey City.

J) Upon demolition of existing structures, the site shall be graded and planted or sodded, with a durable dust free surface in the interim period prior to construction of new buildings.

K) Deviation Requests

The Planning Board may grant deviations from the regulations contained within this Redevelopment Plan, where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, pre-existing structures or physical features uniquely affecting a specific piece of property, the strict application of any area, yard, bulk or design objective or regulation adopted pursuant to this Redevelopment Plan, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property. The Planning Board may also grant such relief in an application relating to a specific piece of property where the purposes of this Redevelopment Plan would be advanced by a deviation from the strict requirements of this Plan and the benefits of the deviation would outweigh any detriments. Deviations from the required retail use as per section IX shall be considered a design waiver, cognizable by the Planning Board. No relief may be granted under the terms of this section unless such deviation or relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Redevelopment Plan.

No deviations may be granted which will result in permitting:

- 1) A use or principal structure in a district which does not permit such use or principal structure;
- 2) An expansion of a non-conforming use;
- 3) An increase in height of more than ten feet or 10% of the height in feet, whichever is less.
- 4) A breach in the required minimum or maximum building base height requirement of 5% or more;
- 5) An increase in the permitted floor area ratio;
- 6) An increase in the parking ratio of 10% or more above the maximum permitted;
- 7) Breach the minimum or maximum number of permitted stories.
- 8) Right-of-way width, and pavement width beyond normal adjustments encountered during survey synchronization;
- 9) Non-completion of minimum open space, parks, or other type of phased improvements required to be implemented;
- 10) Deviation from the Impact Fees provisions set forth in this Plan; or
- 11) Non-compliance with the specific goals and objectives enumerated in the Plan.

Any deviation in the above categories (1-11) or any other deviation that would otherwise constitute a "d" type variance or deviation constitutes a request for a legislative plan amendment cognizable only by the Governing Body. The Jersey City Zoning Board of Adjustment's powers are strictly limited to "a" and "b" appeals (N.J.S.A. 40:53D-70A&B).

L) All development projects within Zone 1, Zone 2, or Zone 10 shall be pursuant to a redevelopment agreement approved by the Jersey City Redevelopment Agency. The agreements will be undertaken on a project by project basis.

M) IMPACT FEE

1) Redevelopment shall provide adequate water, sewer and other necessary utilities to the site, to the satisfaction of the Municipal Engineer and the Municipal Utility Authority. All costs necessary for infrastructure improvements associated with a development project, off-site as well as on-site, are the responsibility of the developer or redeveloper.

N) PROCEDURES FOR AMENDING THE PLAN

1) This Redevelopment Plan may be amended from time to time upon compliance with the requirements of law. A fee of \$5,000.00 plus all costs for copying and transcripts shall be payable to the City of Jersey City for any request by a private entity to amend this plan. The City of Jersey City reserves the right to amend this plan.

O) INTERIM USES

1) Interim uses may be established, subject to agreements between the developers and the Planning Board, that such use will not have an adverse effect upon existing or contemplated development during the interim use period. Interim uses may include surface parking provided there is no ingress or egress onto Journal Square itself. Interim uses must be approved by the Planning Board, which may establish an interim use period of between one (1) year and three (3) years in duration, subject to the Planning Board's discretion. Additional renewals of an interim use may be granted by the Planning Board, subject to the same interim period limitations specified above.

V) OTHER PROVISIONS NECESSARY TO MEET REQUIREMENTS OF STATE AND LOCAL LAWS

A) The Local Redevelopment and Housing Law, N.J.S.A 40A:12A-1 et seq. requires that a Redevelopment Plan shall include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate:

- 1) This Redevelopment Plan achieves the stated objectives of the Jersey City Master Plan by locating high density development in exceptionally close proximity to mass transit facilities with low parking ratios to reduce the traffic impact of future high density development. Other uses such as retail and office uses compatible with a mixed use transit oriented station area are permitted. The plan also provides for adequate setbacks for the widening of Pavonia Avenue, the continuation of Central Avenue, and improved access to the PATH station as well as requirements for the provision of rooftop recreation space so as to reduce the impact of new development on the City's park system.
- 2) This Redevelopment Plan provides for a list of permitted principal uses, as well as accessory uses and prohibited uses in the redevelopment area. The plan also provides for density restriction through the use of a maximum floor area ratio, maximum height limits, as well as setback and stepback requirements and various design controls.
- 3) There will be no displacement of existing residents through the implementation of this plan through condemnation, as this is an area in need of rehabilitation and condemnation is not permitted. Any condemnation action already commenced by the

Jersey City Redevelopment Agency may continue. **The condemnation of easements in areas previously declared in need of redevelopment may be pursued by the Jersey City Redevelopment Agency.**

- 4) The Journal Square 2060 Redevelopment Plan proposes no new acquisition or condemnation of private property for private redevelopment purposes, **however the condemnation of easements in areas previously declared in need of redevelopment may be pursued by the Jersey City Redevelopment Agency.**
- 5) The area covered by this Redevelopment Plan constitutes the area within walking distance of Jersey City's central business district and the transportation hub for Hudson County. This location in the very center of Jersey City and is remote from any adjacent municipality. Jersey City is designated as a "Planning Area 1" in the State Plan and is at the center of the Hudson County "urban complex." The development envisioned by this plan is in conformity with the "State Planning Act" P.L. 1985, c. 398 (C.52:18A-196 et al) as well as the master plan of Hudson County and all contiguous municipalities.
- 6) No affordable units are identified to be removed as part of the implementation of this redevelopment plan.
- 7) No affordable units are identified to be removed as part of the implementation of this redevelopment plan.

#### VI) TRANSPORTATION AND CIRCULATION

- A) The Plan proposes the widening of Pavonia and Oakland Avenues. The western half of Pavonia Avenue between Kennedy Blvd and Summit Avenue was previously widened along the PATH Transportation Center. The remainder of Pavonia Avenue must be widened to match the previous project. This shall be achieved through the dedicating of land to the City along the south side of Pavonia Avenue as shown on *Map 6: Circulation Map*. Oakland Avenue shall also be widened to a total width of 60 feet by a dedication of land along the western side of the Avenue between Newark Avenue and Hoboken Avenue as shown on *Map 6: Circulation Map*.
- B) Central Avenue currently functions as the primary commercial street for the Heights Neighborhood to the north of the Journal Square 2060 Plan area. This Plan proposes a new street to connect Central Avenue in the Heights Neighborhood to Summit Avenue and the Journal Square PATH station. A new street connector is shown on *Map 6: Circulation Map*.
- C) Cook Street is proposed to be vacated and added to Block 527, provided the Central Avenue connector is constructed.
- D) The Bergen Arches right-of-way runs along State Highway Route 139, connecting downtown Jersey City to the national railway network. This right-of-way has many potential future uses. To insure that future use of this right-of-way can be maximized for public benefit, any development on top of the Bergen Arches shall preserve an at grade public easement along the top of the Bergen Arches tunnel or open cut as shown on *Map 6: Circulation Map, Right-of-Way Preservation area*.
- E) The Journal Square Transportation Center is currently configured with its main entrance on Kennedy Blvd. A secondary entrance is located at the eastern end of the Transportation Center at Magnolia Avenue and currently functions as a kiss-and-ride drop off point. This secondary entrance must be upgraded and redesigned as a new front entry plaza by any developer with greater than 200 linear feet along the Magnolia Avenue.

right-of-way as required in Zone 1. Improvements shall include decorative sidewalk and lighting throughout the plaza with bollards to control traffic, street furniture, and other design elements to successfully create an active plaza entryway from Magnolia Avenue.

- F) The Plan envisions a narrow-gauge streetcar line that runs in a dedicated right-of-way along Kennedy Boulevard, Journal Square and Bergen Avenue. This streetcar system is a critical north/south component of a comprehensive transit network designed to service Journal Square and surrounding neighborhoods. A streetcar system will ensure that new and existing developments along Kennedy Boulevard and Bergen Avenue have convenient access to the Journal Square Transportation Center and proposed extensions of the Hudson Bergen Light Rail in the Bergen Arches. The Redevelopment Plan recommends that a streetcar run from the intersection of John F. Kennedy Boulevard and Route 139 to Bergen Avenue at McGinley Square (see Map 6). During the development of a streetcar system, a dedicated bus lane should be implemented along the streetcar right-of-way. All stops should be permanent and substantial in nature. A transitional bus along the streetcar route can help establish a riding habit among Journal Square residents and encourage transit appropriate development along the eventual streetcar corridor. The streetcar may be extended in the future to service additional neighborhoods as part of a comprehensive bus rapid transit system for Jersey City.
- G) Bus priority lanes should be provided within Sip, Pavonia, and Summit Avenues to accommodate a western waterfront bus rapid transit (BRT) system. A BRT line that connects the western waterfront corridor to the Journal Square Transportation Center is necessary to support the development and redevelopment of Jersey City's western waterfront. At the time of this writing, the City of Jersey City is developing a concept design for a two directional BRT route that runs along the Routes 440 and 1&9 Truck corridor between Danforth Avenue and Sip Avenue, and connects to the Journal Square Transportation Center via Sip Avenue. The route will have loop turnarounds at each end. The southern turnaround will be in the vicinity of Danforth Avenue, and the northern turnaround will be at the Journal Square Transportation Center via Pavonia, Summit and Sip Avenues. In order to accommodate the BRT route as it traverses the Journal Square area, the full length of Sip Avenue between Garrison Avenue and the transportation center should be designed to include bus priority lanes so that the BRT vehicles are not delayed by general traffic. These lanes may be placed within the existing right-of-way or cartway, and may be comprised of two one-directional lanes, or one reversible lane that is eastbound during the AM peak and westbound during the PM peak. Additionally, to accommodate the loop turnaround at Journal Square, Pavonia, Summit and Sip Avenue should be designed to include bus priority lanes so that BRT vehicles departing Journal Square for Route 440/1&9T via Sip Avenue are not delayed by general traffic.

## VII) DESIGN REQUIREMENTS FOR ALL ZONES

### A) GENERAL REQUIREMENTS

- 1) All structures within the project area shall be situated with proper consideration of their relationship to other buildings, both existing and proposed, in terms of light, air and usable open space, access to public rights of way and off-street parking, height and bulk.
- 2) All minimum building height requirements shall be measured as stories above sidewalk grade. No mezzanines or split levels or any floor partially below grade shall be considered for minimum height requirements (see building height tables for each

zone district). All floors necessary to meet the minimum height requirement must be approximately equal in floor area. No required minimum floor may be less than ~~75%~~ 60% of the first floor area at grade.

- 3) All lots at the time of adoption of this plan are conforming lots for development, however any newly created lots or development sites through subdivision or consolidation shall have a maximum shape factor of 30. Shape factor is defined as the perimeter of the lot squared, divided by the lot area ( $\frac{\text{Perimeter}^2}{\text{area}}$ ).

(a) Example for a standard 25' by 100' rectangular lot:

perimeter = 250'

perimeter squared = 62,500

area = 2500 square feet

shape factor is  $\frac{62500}{2500} = 25$

- 4) Groups of related buildings shall be designed to present a harmonious appearance in terms of architectural style and exterior materials and shall be encouraged to incorporate historic elements found throughout the surrounding area.
- 5) Buildings shall be designed so as to have an attractive, finished appearance when viewed from all vantage points within and outside of the project area. Each façade shall be treated as being of equal importance in terms of material selection and architectural design.
- 6) Access by the elderly, physically handicapped and/or disabled shall meet barrier free design regulations as specified in the New Jersey and Federal ADA Standard Uniform Construction Code.
- 7) All utility distribution lines, including multi-media telecommunication lines, and utility service connections from such lines to the project area's individual use shall be located underground.
- 8) All adaptive reuse of existing structures shall not be required to meet minimum building height requirements.
- 9) Roof treatment, Mechanical Screening and Electrical Equipment
- (a) All mechanical equipment located on any roof of a building shall be screened from view from all vantage points with a material complementary with the façade of the structure. The screening shall not resemble a utility or rooftop elevator or stair tower. It shall instead resemble an upper level extension of the building and be designed to contribute to the building top design.
- (b) A roof plan must be developed and submitted for approval. Roof plans shall include mechanical equipment, trellises to obscure view, colored roof patterns and landscaping. Parking deck roofs shall be designed to maximize recreational amenity space and all remaining rooftop areas shall be developed as a green roof.
- (c) All electrical communication equipment shall be located in such a way that it does not negatively impact the appearance of the building nor create objectionable views as seen from surrounding structures.
- (d) Transformers and primary and back-up generators shall be located interior to the building or vaulted underground within the pavement area of an adjacent street. Location within and upon the sidewalk, between the sidewalk and the building, or anywhere outside at grade is not permitted.

- (e) The placement of all new or reconstructed signal boxes is required to be below grade.
  - (f) The screening of all new or reconstructed telecom equipment is required.
- 10) Streetscape
- (a) All buildings shall be designed to front on a public street to create a street wall and a pedestrian environment at a human scale.
  - (b) Main entrances into buildings shall be located on all public streets. Secondary entrances shall also be provided from parking areas and/or as necessary according to the design of the structure.
  - (c) Entrances shall be designed to be attractive and functional. Indicators such as awning, changes in sidewalk paving material or other indicator consistent with the design, proportions, material and character of the surrounding area shall be provided.
  - (d) Automobile parking between the building line and a public right-of-way is expressly prohibited, even where surface parking is a permitted use. Parking is not permitted in any front yard.
  - (e) Porte-cocheres and drop-off lanes are prohibited.
- 11) A cornerstone marking the date of construction shall be located in an appropriate ground level corner of any building five or more stories. The cornerstone shall be incorporated into the primary facade material.
- 12) Overhead walkways (skywalks) connecting buildings and or parking above streets or rights-of-ways are prohibited.
- 13) All facade vents for air conditioning or heating units must be incorporated into the window design such that vent grills and windows appear as a single unit. This is best achieved by lining up vent grills with the vertical or horizontal edge of the adjacent window and matching the window's length or width or using a spandrel panel to fill any voids.
- 14) All new sidewalk concrete shall be tinted charcoal grey or equivalent tint.
- 15) All storefronts shall incorporate a cornice element or horizontal projection above the storefront glazing separating ground floor uses from the building above.
- 16) Ground floor storefront bulkheads below the display windows shall be a maximum of 18 inches in height above sidewalk grade.
- 17) All ground floor non-residential facades shall incorporate a minimum of 80% transparent glass.
- 18) All ground floor entryways shall be recessed to avoid door swings into any public right-of-way.
- 19) All large residential development projects are strongly recommended to include provisions for a dog run.
- B) FLOOR HEIGHT MINIMUM
- 1) Residential floor-to-ceiling heights must be a minimum of 9 feet and a maximum of 12 feet.
  - 2) A ground floor residential use (where permitted) must be 2 feet above sidewalk grade. Building lobbies may be at grade for ADA accessibility.
  - 3) Ground floor floor-to-ceiling height minimums for a non-residential use are regulated by the following table:

Building Height	Minimum First Floor Height	Maximum First Floor Height	Maximum First Floor Height within 30' of a Rear Lot Line
2 to 6	12'	18'	12'
7 to 12	15'	20'	12'
13 and up	20'	30'	12'

Table 1

C) SPECIAL REQUIREMENTS FOR A TOWER ON A BASE

- 1) When indicated in the Building Stepback Tables in each Zone district, the following "Tower on a base" requirements shall apply.

- 2) All buildings shall have a base, which shall be designed according to the following:  
(a) Building base height requirements:

Base Height Requirements by Zone (In feet)		
Zone	Minimum	Maximum
1	60'	75'
3	30'	60'
4	30'	42'
5	30'	50'
10	30'	55'

Table 2

- 3) Towers shall be setback from the front lot line a minimum of 10 feet for sites with a lot depth of 100 feet or less. Tower setback shall be a minimum of 15 feet for sites with a lot depth of more than 100 feet.
- 4) Towers shall be setback from side lot lines a minimum of 20 feet.
- 5) Maximum tower length or width dimension is 150 linear feet for primarily residential or hotel use buildings.
- 6) Maximum tower length or width dimension is 200 linear feet for primarily office use buildings.

- 7) Where the tower base abuts a lower density zone, the base of a tower shall be set back from side lot line a minimum of 10 feet and the tower shall be setback a minimum of 30 feet.
- 8) Tower bases must set back 30 feet from any adjacent property's rear property line, except the ground floor which may cover 100% of the lot.
- 9) Front yard setback requirements for each Zone shall apply.
- 10) Building Base Design Requirements:
  - (a) A visual cue or indicator such as a cornice, belt coursing, a significant change in the glass to solid ratio, or any other indicator consistent with the design, proportions, and materials shall be provided at the top of the base.
  - (b) Decorative features and materials are required to provide detail and interest to the pedestrian level of the building.
  - (c) Building bases shall be constructed of durable material of high quality, including but not limited to glass, stone, brick, textured concrete, metal paneling, etc. Glass shall constitute a minimum of 80 % of the ground floor facade (see ground floor height minimum).
  - (d) A decorative screening facade may substitute for glass to wrap parking facilities, subject to approval by the Planning Board.
  - (e) Retail and/or other permitted uses are required along all public rights-of-way, with a minimum depth of twenty-five (25) feet. No more than fifteen (15) percent of the first floor street frontage and no more than twenty (20) consecutive linear feet along a public right-of-way may be dedicated to other uses such as meter rooms, blank walls, garage doors or loading zones, emergency exits, etc.
  - (f) First floor retail height shall be regulated by the ground floor floor-to-ceiling height table in Table 1 above.
- 11) Building Tower Design Requirements:
  - (a) A visual cue or indicator such as a cornice, belt coursing, a significant change in the glass to solid ratio, or any other indicator consistent with the design, proportions, and materials shall be provided at the top of the tower.
  - (b) Building towers shall be constructed of durable material of high quality, including, but not limited to glass, stone, textured concrete, brick, metal paneling etc. Glass shall constitute a minimum of 40 % of the facade.
  - (c) Building towers are required to have a minimum separation distance of 50 feet.

## D) PARKING STANDARDS

All parking shall be provided in multi-tiered structures or automatic garages. Parking structures shall meet the following requirements:

- 1) Bicycle Parking Provisions:
  - (a) For development on all lots greater than 2,500 square feet or residential projects more than four units, bicycle parking is required. A bicycle storage room, located in a convenient and accessible location to the front entry of the building with no more than four vertical steps (ramps may be utilized) between the bicycle room and the sidewalk with room for 1 bicycle space per dwelling unit and 1 bicycle space per 5000 square feet of non residential use is required. Short term bicycle

parking must also be provided in the sidewalk or accessory parking area for all retail or similar ground floor uses at a rate of 1 space per 5000 square feet to a maximum requirement of 10 spaces.

- (b) Bike racks must permit the ability to secure the frame of the bike to the rack system.
- 2) Automobile Maximum Parking Ratios By Use:
- (a) For lots of less than 60 feet in width: no parking is permitted.
  - (b) Residential uses may provide up to a maximum of 0.5 off-street parking space per dwelling unit.
  - (c) Office and other commercial uses may provide up to a maximum of 0.5 spaces per 1000 square feet of gross floor area.
  - (d) Retail, restaurants, bars, nightclubs and health clubs may provide up to a maximum of 0.5 space per 1000 square feet of gross floor area.
  - (e) Theaters may provide up to a maximum of 1 space per 20 seats.
  - (f) Hotels may provide up to a maximum of 1 space per every 3 rooms.
  - (g) Public/semi-public uses may provide a maximum 0.5 space per 1000 square feet of gross floor area.
  - (h) Colleges and Universities may provide a maximum of 1 space per faculty and administrative member per 8 hour shift.
  - (i) All other uses may provide a maximum 0.5 space per 1000 square feet of gross floor area.
  - (j) Public parking garages as a stand alone use are exempt from the parking maximum.
- 3) Automobile Parking Provisions
- (a) Commuter parking is prohibited.
  - (b) Semi-annual reporting of the parking pricing and usage shall be provided to the Director of the Division of City Planning and the Chairman of the Jersey City Planning Board in a format and detail similar to the semi-annual parking report submitted for the Newport Redevelopment Plan Area.
  - (c) To assure the most efficient and effective use of the parking resources located within the Redevelopment Area, shared use of the parking facilities is encouraged.
  - (d) Use of the first 10% of parking stalls from the garage entrance shall be limited to retail users of the on-site retail and neighboring retail uses and be limited to a maximum duration of 4 hours.
- 4) Design Standards:
- (a) In any building over six stories, or any stand-alone parking structure, a parking level at grade may not contain any parking or mechanical floor area adjacent to the sidewalk/street frontage. Atrium, lobby, and/or retail space shall occupy these areas with a minimum depth of 25 feet.
  - (b) In any building under six stories, a parking level at grade shall be set back from the sidewalk a minimum of 3 feet to provide for landscaping, screening the parking use.
  - (c) For stand alone parking structures, the ground floor retail use shall be a minimum height of 15 feet and a depth of 25 feet.

- (d) Any parking structure shall be designed to eliminate headlight glare by the provision of opaque screening for head lights and placement of interior garage lighting to be directed into the structure and mounted on the interior side of columns so as to prevent glare from such lighting to be visible from the street or adjacent property. Light fixture details and location shall be included within the garage floor plan at the time of site plan application.
- (e) The facade of all parking levels shall be of a compatible material to that used throughout the development or adjacent structures and shall be designed to provide visual interest.
- (f) All openings must be screened with glass or decorative façade materials. Any openings shall be in a vertical proportion. Open horizontal bands along the façade of any parking structure are prohibited.
- (g) Exterior lighting of the screening materials on a parking structure façade is required in order to provide additional visual interest in terms of light and shadow and to further mask the interior lighting of the parking structure and headlight glare.
- (h) All pedestrian access points shall be provided at street level and designed to encourage street activity. Overhead or elevated pedestrian or vehicular connections are prohibited.
- (i) All parking spaces shall be 9 feet wide by 18 feet deep. Compact parking spaces (8x15), may be provided, up to fifty (50) percent of approved parking spaces.
- (j) Aisle widths shall conform to the following standards:
  - (i) 90 degree parking 22' wide two-way aisle
  - (ii) 60 degree parking 18' wide one-way aisle
  - (iii) 45 degree parking 15' wide one-way aisle
  - (iv) 30 degree parking 12' wide one-way aisle
- (k) All one-way aisles shall be clearly designated.
- (l) All automatic garage parking is exempt from the above space and aisle dimension requirements.
- (m) Off-street parking and loading areas shall be coordinated with the public street system serving the project area in order to avoid conflicts with through traffic or obstruction of pedestrian walks and thoroughfares.
- (n) Surface parking lots (as an interim use) and all loading areas, shall provide a screen planting of dense evergreens along any street line and along all property lines except those instances where a building intervenes or where the proposed planting may interfere with sight triangles. Within the parking area, a minimum of three percent (3%) of the parking area shall be landscaped and maintained with shrubs no higher than three (3) feet and trees with branches no lower than six (6) so that the landscaping is dispersed throughout the parking area.
- (o) The number and design of off-street loading spaces shall be demonstrated by an applicant according to an anticipated need. All freight loading activities are encouraged to be restricted to early morning and/or late evening hours. The design and number of off-street loading shall be regulated by the Jersey City Land Development Ordinance.
- (p) Drop off areas may be required for uses generating organized pick-up and drop-off services such as, but not limited to, medical offices.

- (q) All entry ways to off-street parking and loading structures shall incorporate decorative materials coordinated with the primary base façade on all surfaces twenty-five (25) feet deep into the structure to create an attractive view from the sidewalk and adjacent pedestrian areas.
  - (r) Parking and service access should not be located on the main traffic oriented streets. A head-in/head-out design is required for all loading and parking facilities. For parking facilities with 30 spaces or less, driveway widths shall be a maximum of 12 feet. For all other parking facilities, driveway widths shall be a maximum of 18 feet.
  - (s) Direct new development to minimize pedestrian and traffic conflicts.
  - (t) All site plan application for parking structures should demonstrate the ability to provide for electric vehicle charging stations in the future.
- 5) Below grade parking is permitted to cover 100% of the lot and shall not be counted against permitted FAR.
  - 6) All developments which propose valet parking shall submit a parking management plan. Such plan shall include but not be limited to: number of vehicles to be parked, number of rows of cars to be stacked, all parking stall and aisle widths and any other information deemed necessary to effectively evaluate the management plan. All parking management plans shall be subject to review and approval of the Division of Traffic Engineering, the Division of City Planning and the Planning Board. Valet parking schemes shall not be permitted to increase the total number of parked cars above the maximum number of permitted spaces.

#### E) OPEN SPACE DESIGN REQUIREMENTS

- 1) Where possible, new structures surrounding or enclosing open space should be designed and sited to allow the greatest penetration of sunlight onto open space areas throughout the year.
- 2) Open space shall provide visual and functional elements such as bicycle parking, benches, seating walls, drinking fountains, refuse containers and planters, and public fountains. Open space amenities shall include decorative material such as: stone pavers, brick pavers, asphalt pavers, stamped and tinted concrete, and decorative lighting and detailing.
- 3) Adequate lighting shall be provided to encourage active usage and a sense of security in the open space.
- 4) Open space shall be distributed so as to provide for maximum usability.
- 5) Through creative design, open space features shall address the need for human comfort and enjoyment and provide both active and passive leisure uses for secure and pleasant outdoor and indoor settings to meet public and private use requirements. Open space and plazas shall be designed at a human scale to invite and attract the public.
- 6) Open space shall be oriented to maximize views.
- 7) As a general guide, one (1) linear foot of seating for each linear foot of plaza perimeter shall be provided. Seating space may include planters, benches, fountains, etc.

#### F) LANDSCAPING AND LIGHTING REQUIREMENTS

- 1) Landscaping shall be required for any part of any parcel not used for buildings, off-street parking, plaza areas or loading zones. The developer's plan shall include proposals for landscaping indicating the location, size and quantity of the various species to be used.
- 2) All plant material used must be able to withstand an urban environment. All screen planting shall be a minimum of 4 feet high and shall be planted, balled and burlapped as established by the American Association of Nurserymen. A planting schedule shall be provided by the developer and approved by the Planning Board. Ground cover shall be used in place of mulch.
- 3) All new trees shall be of a species and gender so as to minimize fruit and pollen.
- 4) Any landscaping which is not resistant to the environment or dies within 2 years of planting shall be replaced by the developer.
- 5) Underground watering facilities shall be required for all landscaped areas. Hose bibs shall be provided immediately adjacent to planting areas abutting a building.
- 6) Street trees shall be planted along curb lines of streets in a regular pattern, spaced at one-half the mature spread of the tree canopy to further enhance the aesthetic quality of the redevelopment area. All trees shall be a minimum of four (4) inches in caliper.
- 7) Lighting within the site shall sufficiently illuminate all areas, including those areas where buildings are setback or offset to prevent dark corners.
- 8) All lighting sources must be adequately shielded to avoid any off-site glare. The area of illumination shall have a uniform pattern of at least one-half (0.5) foot candles.
- 9) All landscaping must be fully enclosed by curb or seating wall constructed of a masonry or metal material with a minimum of 6 inch in height. Landscaping shall be elevated to match the height of the curb or seating wall. Fencing is discouraged, but may be set into the required curb.

#### G) GREEN BUILDING REQUIREMENTS

- 1) For new construction projects with more than 9,000 square feet of roof top area, 90% of all roof top area not used for recreation space, solar panels, elevator or stair housing or other areas necessary for mechanical equipment must be a "green roof".
- 2) All plumbing fixtures must demonstrate a 30% improvement over US EPA 1992 Energy Policy Act standards. All new toilets must be a dual-flush design and use an average of 1.28 gallons per flush or less and achieve the US EPA HET standard. All new shower heads and faucets must be equipped with aerators or other mechanisms to reduce water flow.
- 3) All new construction must demonstrate 20% improvement in energy efficiency of the building envelope and mechanical systems over ASHRAE 90.1 2007 or the most recently adopted energy standards by NJ Department of Energy.
- 4) All paints and carpets must be "low VOC" generally defined as having less than 60 grams per liter of volatile organic compounds.
- 5) All new installed appliances and light bulbs must be Energy Star rated.
- 6) The recycling and reuse of grey water is encouraged when feasible.

#### H) BUILDING AMENITY REQUIREMENTS

- 1) All buildings with 4 or more units must provide a washer/dryer room in the building.
- 2) Buildings with over 50 units must include at least 2% of the units designed with 3 bedrooms or more.

- 3) Buildings with 4 or more floors must provide an elevator.
- 4) A minimum of 30% of the lot area must be dedicated to useable recreation space by occupants. This space may be placed in a rear yard or on a roof. Roof decks are encouraged and may be necessary to achieve this requirement.
- 5) Showers and other facilities necessary to support people biking to work is required in all office buildings and other major centers of employment greater than 100,000 square feet.

I) BUILDING MATERIALS REQUIREMENTS

- 1) Synthetic stucco materials such as EIFS is prohibited.
- 2) Concrete block may not be used as a decorative finish on any facade.
- 3) Exterior doors including emergency exits and utility access shall not be secured with a pad lock. All door must include a built in lock mechanism.
- 4) Brick facades are encouraged to utilize multi toned brick selections with at least 3 tones so as not to create a dull or flat brick facade.
- 5) Front cantilevered balconies may project no more than 12 inches from the facade where located within 45 feet from grade or on the base of any "tower on a base" building design (see Section IV: C). Above a stepback, balconies may extend no more than the width of the stepback.
- 6) Use of chain link fencing, razor wire, barbed wire, or other similar security devises is expressly prohibited. Chain linked fencing may be temporality utilized during construction only.
- 7) Security Gates: All front security gates shall be completely composed of the open mesh type, except for two feet at the bottom of the gate which may be solid. Storage boxes for all security gates shall be mounted on the interior of the building. Gate tracks shall be recessed into the glazing reveal and the gate housing shall be flush with the plane of the storefront. No storage box, tracks or mechanical devices related to the gates may project from the plane of the storefront.

VIII) SIGNAGE REGULATIONS

A) Signage Approval Process

- 1) All signs are subject to site plan review when included as part of a major site plan application.
- 2) All temporary banner signs for marketing projects on site shall be considered as an interim use.
- 3) All new signage (except billboards) that complies with the redevelopment plan shall not require site plan approval.
- 4) Minor Site Plan application with deviation must be submitted to the Planning board for all non-conforming sign proposals.
- 5) Any signage (except billboards) more than 45 feet above grade is not permitted in this Redevelopment Plan. All requests for this type of signage constitutes a minor site plan application with deviation.
- 6) Billboards or theater marquees are subject to minor site plan review.
- 7) During construction, one (1) temporary sign indicating: the name of the project or development, general contractor, subcontractor, financing institution and public entity officials (where applicable) shall be permitted. The sign area shall not exceed forty (40) square feet.

B) Number and Size of Signage

- 1) The building address is required to be placed on either the main entry door, transom window, building, or awning flap at a maximum font height of 10 inches.
  - 2) Corner lot development is encouraged to display the street names on the building facade or imprinted into the sidewalk.
  - 3) Sign requirements along all Rights-of-Way where retail is mandatory (see *Map 4: Required Retail Use Map*):
    - (a) For retail, restaurants, bars, nightclubs, and other similar ground floor uses:
      - (i) Each use fronting on a public street may be permitted one (1) exterior sign per street frontage.
      - (ii) Maximum sign height shall be 24 inches.
    - (b) All other uses:
      - (i) Each such use fronting on a public street may be permitted one (1) exterior sign per entryway per street frontage. Buildings with multiple uses shall have no more than one (1) sign per use.
      - (ii) The total exterior sign area shall not exceed the equivalent of three (3) percent of the first story portion of the wall to which it is attached. In no case shall a sign on any structure exceed 10 square feet.
  - 4) Sign requirements along all Rights-of-Way where retail is not required (see *Map 4: Required Retail Use Map*):
    - (a) For retail, restaurants, bars, nightclubs, and other similar storefront uses:
      - (i) Each such use fronting on a public street may be permitted one (1) exterior sign per street frontage.
      - (ii) Maximum sign height shall be 18 inches.
    - (b) All other uses:
      - (i) Each such use fronting on a public street may be permitted one (1) exterior sign per entryway per street frontage. Buildings with multiple uses shall have not more than one (1) sign per use.
      - (ii) The total exterior sign area shall not exceed the equivalent of two (2) percent of the first story portion of the wall to which it is attached. In no case shall a sign on any structure exceed 8 square feet.
- C) Sign Design Requirements
- 1) All signs shall be attached to the first floor level of the building only, although blade signs may be attached to the first or second floor façade.
  - 2) All wall signs shall be flush mounted;
  - 3) All blade signs shall project no more than 30 inches from the facade and the bottom of the sign must be a minimum of 9 feet above the sidewalk.
  - 4) Window signs (other than lettering and logos as specifically permitted) shall be prohibited. Lettering or logos shall be limited to decorative metal leaf, flat black or etched / frosted glass style lettering and shall be limited to the name of the business occupying the commercial space / storefront and shall cover no more than twenty (20%) of the window area.
  - 5) Permitted signage material includes:
    - (a) Painted wood.
    - (b) Painted metals including aluminum and steel.
    - (c) Brushed finished aluminum, stainless steel, brass, copper, or bronze.
    - (d) Carved wood or wood substitute.

- 6) Permitted lettering material includes:
    - (a) Lettering forms applied to the surface of the sign.
    - (b) Single colored lettering forms applied to the surface of the sign.
    - (c) Metallic solid body letters with or without returns.
    - (d) Painted acrylic or metal letter.
    - (e) Vinyl lettering attached permanently to a wood, wood substitute or metal signboard.
  - 7) Signs may be lit from backlit halo, and up-lights. Internally lit signs and sign boxes are prohibited.
  - 8) Storefront windows shall not be blocked by any interior display case or other form of barrier. Pedestrians on the street shall have the ability to see into the shop and view the activity within.
  - 9) Signs may include the name of the store only. Building address, phone number, operating hours and other additional information may be stenciled on the door.
  - 10) One portable sign is permitted within of 8 feet of the entryway of the associated use. Portable signs are not permitted for parking garages.
- D) Parking Garage Signage
- 1) One (1) sign shall be provided per entrance to garages indicating the parking facility by the international parking symbol and direction arrow. The sign area shall not exceed twenty (20) square feet. If applicable, one (1) sign per entrance may be allowed indicating parking rates, not to exceed eight (8) square feet.
  - 2) Portable signs are not permitted for parking garages.
- E) Billboard Requirements
- 1) Billboards are only permitted within a 400 foot radius of the intersection of the center lines of Kennedy Boulevard and Bergen Avenue.
  - 2) Billboards are permitted only on building rooftops greater than 30 feet above grade. Billboards may also be permitted on a building facade only at the discretion of the Planning Board and only for the purpose of screening a blank wall or parking structures and within the 400 foot radius described above.
  - 3) All billboards are required to be coplanar, (placed in the same plane) with the building facade.
  - 4) Billboards may not exceed 20 feet in height and are required to be the same width as the portion of the facade it is built coplanar to.
  - 5) All support structures shall be screened from view from all public rights-of-way by the face of the billboard.
- F) Prohibited Signs
- 1) Freestanding signs, except for those indicating direction, transportation, circulation and parking are prohibited.
  - 2) Portable advertising signs not associated with use within 10 feet are strictly prohibited.
  - 3) Product advertising signage of any kind.
  - 4) Signage attached to parking meters, light poles, benches, or other street furniture.
  - 5) Monument signs
  - 6) Internally or externally illuminated box signs
  - 7) Flashing or animated signs, spinners, pennants, reflective materials that sparkle or twinkle

- 8) Window signs, posters, plastic or paper that appear to be attached to the window.
- 9) Pole signs.
- 10) Waterfall style or plastic awnings.

**IX) REQUIRED LAND USE REGULATIONS**

- A) Retail and/or other permitted active storefront type uses, which activate the adjacent sidewalk, are required along all public rights-of-way where indicated on *Map 4: Required Retail Use Map*. Active storefront type uses include, but not limited to, retail, storefronts, building lobbies, art galleries, bars and restaurants.
  - 1) Minimum depth of retail use shall be twenty-five (25) feet.
  - 2) No more than fifteen (15) percent and no more than twenty (20) consecutive linear feet may be dedicated to other uses such as meter rooms, blank walls, emergency exits, etc.
  - 3) Ground floor residential is only permitted if necessary to meet the requirements of the Americans with Disabilities Act, there is no elevator access, and provided the following conditions are met:
    - (a) Must be situated behind the retail use.
    - (b) The building must maintain a minimum of 600 square feet of retail space at grade level and at the front of the building.
    - (c) The building must incorporate a cellar not less than 600 square feet or 50% of the building's footprint, whichever is greater, to provide storage space for the retail use and for the location of trash rooms, mechanical rooms, meters or other infrastructure needs of the building so as to maximize available retail space at the ground floor level. Additional space may be allocated to residential tenants.

**X) SPECIFIC LAND USE REGULATIONS**

**A) ZONE 1: CORE**

The purpose of this zone is to provide for high-density, high-rise construction on parcels immediately adjacent to the Journal Square Transportation Center. As the center of the Journal Square plan with the greatest access to both heavy rail and bus transportation systems, this block has the greatest potential to provide housing, office space, and other uses in a transit oriented manner.

- 1) Permitted Principal Uses:
  - (a) Mid and High-rise Residential: no residential units permitted on the ground floor.
  - (b) Retail Sales of Goods and Services/Financial Services.
  - (c) Office: Permitted everywhere except ground floor.
  - (d) Art galleries
  - (e) Live/Work units and home occupations: except on the ground floor.
  - (f) Restaurants, category one and two.
  - (g) Hotels/Bed and Breakfast.
  - (h) Theaters.
  - (i) Child/Adult Day Care Centers: except on the ground floor.
  - (j) Night Clubs/Bars.
  - (k) Schools.
  - (l) Community Centers.
  - (m) Museums.
  - (n) Government uses.

- (o) Billboards: as per billboard requirements in Section VII: E above.
- (p) Any combination of the above
- 2) Accessory Uses
  - (a) Structured parking and loading
  - (b) Fences and seating walls
  - (c) Landscape features
  - (d) Improved Open Space
  - (e) Signs
  - (f) Rooftop Recreation
  - (g) Sidewalk Cafe: where sidewalk width permits.
- 3) Prohibited Uses
  - (a) Surface parking as a principal or accessory use.
  - (b) Drive-through facilities pertaining to restaurants, banks, pharmacies, and other drive through uses
  - (c) Gas stations, service stations, auto repair, auto body shops, and other automobile related uses (not including car share programs).
- 4) Lot Size and Dimension Requirements
  - (a) All existing lots at the time of adoption of this plan are conforming lots.
  - (b) Subdivisions must conform to the following minimum standards:
    - (i) Minimum lot area: 10,000 square feet.
    - (ii) Minimum lot width: 100 feet.
    - (iii) Minimum Lot Depth: 100 feet.
    - (iv) Shape Factor Maximum: 30
- 5) Maximum Floor Area Ratio (FAR)Standards
  - (a) The permitted Floor Area Ratio (FAR) for any new development shall be regulated according to the following table:

LOT SIZE (Square Feet)		Maximum Permitted FAR (residential primary use)	Maximum Permitted FAR (office primary use)
From	To		
0	5,999	4	4
6,000	19,999	8	6
20,000	29,999	16	8
30,000	59,999	20	12
60,000	∞	25	16

Table 3

- (b) The Floor Area Ratios in Table 3 above are inclusive of all built structures at or above grade including, but not limited to parking decks, lobbies, hallways, building core, common areas, etc.
- (c) Buildings over 210 feet must comply with "tower on a base" design requirements

in Section IV: C.

- 6) Minimum Building Height Requirement
    - (a) The minimum height for any new building shall be sixty-five (65) feet.
  - 7) Yard Requirements
    - (a) Front Yard Requirements:
      - (i) Front yard setback shall be sufficient to provide the minimum sidewalk width indicated in *Map 5: Required Sidewalk Width Map*, measured from the ground floor building facade to the existing curb-line at the time of adoption.  
Example: If the existing sidewalk width is 10 feet, and the required sidewalk is 20 feet, then the required front yard setback shall be 10 feet.
    - (b) Side Yard Requirements:
      - (i) Side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows or as per the "Tower on a Base" requirements in Section IV: C.
    - (c) Rear Yard Requirements:
      - (i) No rear yard is required.
  - 8) Sidewalk and streetscape elements shall complement the established design, color, materials and street furniture of the Journal Square Streetscape improvements.
  - 9) The current public pedestrian access easement that traverses the Block 1866, Lot 36 and provides access between Sip Avenue and Concourse East shall be maintained at grade level. Its location may be shifted to the eastern edge of Block 1866, Lot 25H, parallel to the Hudson County College walkway. The existing College pedestrian walkway along the western side of Lot 27C on Block 1866 shall be maintained and widened to a minimum of 5 Feet.
  - 10) Improvement shall be provided to Concourse East to insure a seamless connection between the projects and usable shared sidewalk.
  - 11) It is required that Pavonia Avenue be widened by approximately ten feet (10') on the South side, in-line with a previous street widening in front on the Journal Square Transportation Center. The required setback along Pavonia Avenue therefore must be sufficient to accommodate this street widening as well as the required sidewalk width of twenty (20') feet, totaling an approximate thirty (30) foot setback from the existing curb line along this section of Pavonia Avenue. The land necessary for this right-of-way improvement shall be dedicated to the City. All setback and stepback requirements shall be measured from the new property lines created.
  - 12) A maximization of lot coverage and FAR is being permitted as a component of this zone due to its proximity to the Journal Square PATH station. At grade open space is not required on site, but instead must be provided as improvements to the Magnolia Ave kiss-and-ride drop off area as described in section VI) E above by any development adjacent to Magnolia Avenue for a length greater than 200 linear feet. Any developer that triggers this provision shall fund, improve, and maintain this new plaza entry way for the Journal Square Transportation Center. Any development application for building under this provision shall include the site plan development improvements for the plaza as part of the same application. Construction of the plaza shall be completed simultaneously with the principal building.
- B) ZONE 2: AIR-RIGHTS
- 1) The sole permitted use in this zone is for transportation uses. It is desirable in the

future to deck over the existing rail tracks and develop the air rights above for a variety of uses, including office, commercial and residential uses, and to incorporate public open space to create landscaped pedestrian plazas that form a continuous link from the Journal Square PATH station to the surrounding neighborhoods from Baldwin Avenue to Garrison Avenue. Recommended pedestrian corridors are shown on *Map 5: Required Sidewalk Width* and *Map 6: Circulation*. Building heights, forms, and permitted uses are to be determined as a future amendment to this redevelopment plan.

- 2) ~~It is desirable that privately owned land east of Summit Avenue in Zone 2 be reserved for public open space. To achieve this goal, any privately owned parcels in Zone 2 east of Summit Avenue may dedicate land to the City in exchange for an FAR bonus granted to an adjacent site in Zone 3 or 4. The bonus shall be calculated as a 1:1 ratio of land area to FAR. For example, a 10,000 square foot lot dedicated to the City may add 10,000 square feet of floor area above the permitted zoning on an adjacent site. Any structure built under this bonus provision shall have a maximum building height of 12 stories and 130 feet and must maintain a 30 foot separation buffer with the historic Summit House. Any structure built under this bonus provision that is adjacent to Zone 6 shall have a maximum building height of 8 stories and 85 feet.~~

#### C) ZONE 3: COMMERCIAL CENTER

The purpose of this zone is to provide for an active and intensive use of parcels surrounding the Journal Square Transportation Center. With close proximity and short walking distances to heavy rail and bus transit systems, this zone complements the established commercial center of Jersey City.

##### 1) Permitted Uses:

- (a) Residential: permitted everywhere except on the ground floor of buildings greater than 65 feet in height.
- (b) Retail Sales of Goods and Services/Financial Services.
- (c) Offices: permitted everywhere except on the ground floor of buildings greater than 65 feet in height.
- (d) Art galleries.
- (e) Live/Work units and home occupations: except on the ground floor of buildings greater than 65 feet in height.
- (f) Restaurants: category one and two.
- (g) Structured Parking: provided the design standards of Section IV: D above are met. Structured Parking is not permitted at any street corner location.
- (h) Hotels/Bed and Breakfast.
- (i) Medical Offices
- (j) Child and Adult Day Care Centers.
- (k) Theatres/Night Clubs/Bars.
- (l) Schools
- (m) Museum
- (n) Government uses.
- (o) Billboards: as per billboard requirements in Section VII: E above.
- (p) Any combination of the above.

##### 2) Accessory Uses

- (a) Fences and seating walls.
  - (b) Landscape features.
  - (c) Improved Open Space.
  - (d) Signs.
  - (e) Rooftop Recreation.
  - (f) Sidewalk Cafe: where sidewalk width permits.
- 3) Prohibited Uses
- (a) Surface parking as a principal or accessory use.
  - (b) Drive-throughs pertaining to restaurants, banks, pharmacies, and other drive through uses.
  - (c) Gas stations, service stations, auto repair, auto body shops, and other automobile related uses (not including car share programs).
- 4) Lot Size and Dimension Requirements
- (a) All existing lots at the time of adoption of this plan are conforming lots.
  - (b) Subdivisions must conform to the following minimum standards:
    - (i) Minimum lot area: 7500 square feet.
    - (ii) Minimum lot width: 75 feet.
    - (iii) Minimum Lot Depth: 100 feet.
    - (iv) Shape Factor Maximum: 30
- 5) Density and Height Requirements
- (a) Density is not regulated by floor area ratio or units per acre in this zone. Instead, a "building envelope" is defined, depending on the size and shape of the site. Minimum room and unit sizes are regulated by building code.
- 6) Maximum and minimum building height shall be calculated based on the lot size according to the following table provided the required standards in the table are met:

Approximate Lot Dimension	Lot Area up to: (square feet)	Minimum Building Height (stories)/(feet)	Maximum Building Height (stories)/(feet)
	0 to 2499	3 / 32'	3 / 34'
25x100	2500 to 4999	3 / 32'	5 / 54'
50x100	5000 to 7499	4 / 42'	8 / 85'
75x100	7500 to 9999	5 / 52'	10 / 105'
100x100	10000 to 12499	5 / 52'	18 / 195'
125x100	12500 and up	5 / 52'	25 / 265'

Table 4

- 7) Building Stepbacks: To provide light and air to adjacent lots, buildings taller than 4 stories must provide a "stepback" from the property line at the following intervals:

Story Level	Front Stepback	Side Stepback	Rear Stepback
1	none	none	none
2 to 5	none	none	30'
6 to 10	10'	none	30'
11 to 18	10'	15'	30'
19 and up	See Tower on a Base Section IV: C		

Table 5

8) Yard Requirements

(a) Front Yard Requirements:

(i) Front yard setback shall be sufficient to provide the minimum sidewalk width indicated in *Map 5: Required Sidewalk Width Map*, measured from the ground floor building facade to the existing curb-line at the time of adoption.

Example: If the existing sidewalk width is 10 feet, and the required sidewalk is 20 feet, then the required front yard setback shall be 10 feet.

(ii) Up to 30% of a building facade may be set back up to an additional 10 feet to accommodate outdoor seating areas or public space, but not for front yard car parking and must be designed to be impractical for such use.

(b) Side Yard Requirements:

(i) Side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows or as per the "Tower on a Base" requirements in Section IV: C.

(c) Rear Yard Requirements:

(i) No rear yard is required, however a second floor step back of 30 feet is required as per Table 5 above.

(ii) For through lots, a 50 foot "rear yard" is required at grade or above the first floor, and centered in the middle of the block.

(iii) Corner lots must setback on the second floor 30 feet from any adjacent property's rear property line.

D) ZONE 4: NEIGHBORHOOD MIXED USE

The purpose of this zone is to provide for new housing, office space, and other uses on parcels within a 10 minute walk of the Journal Square Transportation Center. This zone continues the existing pattern of mixed land uses and building types while providing for increased height limits on corner lots.

1) Permitted Uses:

(a) Residential: permitted everywhere except on the ground floor of buildings utilizing a corner height bonus depicted on *Map 3: Corner Lot Bonus Map*.

(b) Retail Sales of Goods and Services/Financial Services.

(c) Offices.

(d) Art galleries.

(e) Live/Work units and home occupations.

(f) Restaurants: category one and two.

- (g) Structured Parking: provided the design standards of Section IV: D above are met. Structured Parking is not permitted at any street corner location.
  - (h) Hotels/Bed and Breakfast.
  - (i) Medical Offices.
  - (j) Child and Adult Day Care Centers.
  - (k) Theatres/Night Clubs/Bars: on corner lots, provided no more than 60 decibels is measureable outside the establishment. Night clubs and bars are limited to 5000 square feet.
  - (l) Houses of worship.
  - (m) Museum.
  - (n) Schools.
  - (o) Community Centers.
  - (p) Government uses.
  - (q) Any combination of the above.
- 2) Accessory Uses
- (a) Structured and surface parking and loading.
  - (b) Fences and seating walls.
  - (c) Landscape features.
  - (d) Improved Open Space.
  - (e) Signs.
  - (f) Rooftop Recreation.
  - (g) Sidewalk Cafe: where sidewalk width permits.
- 3) Prohibited Uses
- (a) Surface parking as a principal use.
  - (b) Drive-throughs pertaining to restaurants, banks, pharmacies, and other drive through uses.
  - (c) Gas stations, service stations, auto repair, auto body shops, and other automobile related uses (not including car share programs).
  - (d) Billboards.
- 4) Lot Size and Dimension Requirements
- (a) All existing lots at the time of adoption of this plan are conforming lots.
  - (b) Subdivisions must conform to the following minimum standards:
    - (i) Minimum lot area: 7500 square feet.
    - (ii) Minimum lot width: 75 feet.
    - (iii) Minimum Lot Depth: 100 feet.
    - (iv) Shape Factor Maximum: 30
- 5) Density and Height Requirements
- (a) Density is not regulated by floor area ratio or units per acre in this zone. Instead, a "building envelope" is defined, depending on the size and shape of the site. Minimum room and unit sizes are regulated by building code.
  - (b) Maximum and minimum building height shall be calculated based on the lot size according to the following table provided the required standards in the table are met:

Approximate	Lot Area	Minimum	Maximum	Maximum	Maximum	Maximum
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Lot Dimension	up to: (square feet)	Building Height (stories)/(feet)	Building Height (stories)/(feet)	Building Height with Bonus "C" (stories)/(feet)	Building Height with Bonus "B" (stories)/(feet)	Building Height with Bonus "A" (stories)/(feet)
	0 to 2499	2 / 22'	3 / 34'			
25x100	2500 to 4999	2 / 22'	4 / 44'	5 / 54'	5 / 54'	5 / 54'
50x100	5000 to 7499	3 / 32'	5 / 54'	6 / 64'	6 / 64'	8 / 85'
75x100	7500 to 9999	4 / 42'	6 / 64'	6 / 64'	8 / 85'	8 / 85'
100x100	10000 and up	5 / 52'	6 / 64'	6 / 64'	8 / 85'	12 / 130'

Table 6

- (c) **Corner Lot Bonus:** Corner lots at selected locations are permitted a height bonus to encourage larger buildings at street corners as indicated in *Map 3: Corner Lot Bonus Map*. To qualify for the bonus height, corner lots must have the minimum lot size indicated in Table 6 for each bonus as well as the minimum sidewalk width indicated in *Map 5: Sidewalk Width Map*. Corner Bonus projects are not required to match adjacent front yard setbacks in section 6 below, but instead must provide a front yard setback from the existing curb-line at the time of adoption sufficient to meet the minimum sidewalk width as per the *Map 5: Sidewalk Width Map*. Projects must also comply with the minimum floor-to-ceiling height requirements and required building setbacks. The Corner Lot Bonus is applicable to a maximum lot area of 20,000 square feet.
- (d) **Whole block development provision:** where an entire block measuring greater than 30,000 square feet (not including any property in Zone 6) is consolidated, bounded only by rights-of-way, the development standards for Zone 3 may be applied provided that:
- (i) A 20 foot sidewalk is provided around the entire circumference of the block.
  - (ii) Tower setbacks of 12 feet are accommodated set back from the base facade.
  - (iii) Parking is not permitted to front along any right-of-way at grade level. All parking uses must be screened from view through the use of wrap units. Any non-parking permitted use must occupy the first floor along all rights-of-way to a depth of a minimum of 25 feet. Parking may only be exposed on or above the second story.
  - (iv) Properties in Zone 6 must be excluded from any site plan under this provision.
  - (v) No buildings may be placed in the right-of-way preservation area as indicated on *Map 6: Circulation*. All preservation areas must be designed as publicly accessible plaza.
- (e) **Building Setbacks:** To provide light and air to adjacent lots, buildings must provide a "stepback" from the property line at the following intervals:

Story Level	Front Stepback	Side Stepback	Rear Stepback
1	none	none	none
2 to 4	none	none	30'
5	10'	none	30'
6	10'	5'	30'

7	15'	5'	30'
8	15'	10'	30'
9 and Up	See Tower on a Base Section IV: C		

Table 7

6) Yard Requirements

(a) Front Yard Requirements:

- (i) Front yard setback shall match the setback of the "Primary Building Façade" (see Article I of the Land Development Ordinance for definition of Primary Building Façade) on either side of the subject parcel, provided that the building setback to be matched shall be closest to the predominant (most frequently occurring) setback on the block front. Where sidewalk widths are less than 8 feet, the front yard setback requirement must be the minimum of 8 feet from front facade at the ground floor to the curb.
- (ii) Up to 30% of a building façade may be set back up to an additional 10 feet to accommodate stoops, outdoor seating areas or public space, but not for front yard car parking and must be designed to be impractical for such use.
- (iii) If the adjacent front yard setbacks are greater than 10 feet, and the project site has 60 feet or more of frontage on a right-of-way, then the building may limit the front yard setback requirement to 10 feet.
- (iv) Where retail is required as indicated in *Map 4: Required Retail Use Map*, the front yard setback shall be from the existing curb-line at the time of adoption sufficient to provide the minimum sidewalk width as depicted in *Map 5: Required Sidewalk Width Map*, measured from the ground floor building facade to curb. Example: If the existing sidewalk width is 10 feet, and the required sidewalk is 20 feet, then the front yard setback shall be 10 feet.

(b) Side Yard Requirements:

- (i) Where the adjacent building is less than four stories, the minimum side yard setback shall be 10% of the lot width up to a maximum requirement of 10 feet and the minimum required by fire or building code to accommodate adjacent windows.
- (ii) Where a ground floor retail use is mandatory (see *Map 4: Required Retail Use Map*), side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows.
- (iii) Where the adjacent building is greater than 4 stories, or where the adjacent building is built on the lot line, side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows.

(c) Rear Yard Requirements:

- (i) No rear yard is required, however a second floor step back of 30 feet is required as per the building step back table above.
- (ii) For through lots, a 50 foot "rear yard" is required at grade or above the first floor, and centered in the middle of the block.
- (iii) Corner lots must stepback on the second floor 30 feet from any adjacent property's rear property line.
- (iv) Where a rear lot line abuts a side lot line, only a side yard is required.

E) ZONE 5: COMMERCIAL MAIN STREET

The purpose of this zone is to continue the existing pattern of main street type commercial buildings along Newark Avenue while providing for efficient modern new construction and increased density on corner lots.

1) Permitted Uses:

- (a) Residential: permitted everywhere except on the ground floor.
- (b) Retail Sales of Goods and Services/Financial Services.
- (c) Offices.
- (d) Art galleries.
- (e) Live/Work units and home occupations: permitted everywhere except on the ground floor.
- (f) Restaurants: category one and two.
- (g) Structured Parking: provided the design standards of Section IV: D above are met. Structured Parking is not permitted at any street corner location.
- (h) Hotels/Bed and Breakfast.
- (i) Medical Offices.
- (j) Child and Adult Day Care Centers.
- (k) Night Clubs/Bars: on corner lots, provided no more than 60 decibels is measureable outside the establishment.
- (l) Museum.
- (m) Any combination of the above.

2) Accessory Uses

- (a) Structured parking and loading.
- (b) Fences and seating walls.
- (c) Landscape features.
- (d) Improved Open Space.
- (e) Signs.
- (f) Rooftop Recreation.
- (g) Sidewalk Cafe: where sidewalk width permits.

3) Prohibited Uses

- (a) Surface parking as a principal or accessory use.
- (b) Drive-throughs pertaining to restaurants, banks, pharmacies, and other drive-through uses.
- (c) Gas stations, service stations, auto repair, auto body shops, and other automobile related uses (not including car share programs).
- (d) Billboards.

4) Lot Size and Dimension Requirements

- (a) All existing lots at the time of adoption of this plan are conforming lots.
- (b) Subdivisions must conform to the following minimum standards:
  - (i) Minimum lot area: 2500 square feet.
  - (ii) Minimum lot width: 25 feet.
  - (iii) Minimum Lot Depth: 100 feet.
  - (iv) Shape Factor Maximum: 30

5) Density and Height Requirements

- (a) Density is not regulated by floor area ratio or units per acre in this zone. Instead, a "building envelope" is defined, depending on the size and shape of the site. Minimum room and unit sizes are regulated by building code.
- (b) Maximum and minimum building height shall be calculated based on the lot size according to the following table provided the required standards in the table are met:

Approximate Lot Dimension	Lot Area up to: (square feet)	Minimum Building Height (stories)/(feet)	Maximum Building Height (stories)/(feet)	Maximum Building Height with Bonus "C" (stories)/(feet)	Maximum Building Height with Bonus "B" (stories)/(feet)	Maximum Building Height with Bonus "A" (stories)/(feet)
	0 to 2499	3 / 32'	3 / 34'			
25x100	2500 to 4999	3 / 32'	4 / 44'	5 / 54'	5 / 54'	5 / 54'
50x100	5000 to 7499	3 / 32'	5 / 54'	6 / 64'	6 / 64'	6 / 64'
75x100	7500 to 9999	4 / 42'	6 / 64'	6 / 64'	8 / 85'	8 / 85'
100x100	10000 and up	5 / 52'	6 / 64'	6 / 64'	8 / 85'	12 / 130'

Table 8

- (c) **Corner Lot Bonus:** Corner lots at selected locations are permitted a height bonus to encourage larger buildings at street corners as indicated in *Map 3: Corner Lot Bonus Map*. To qualify for the additional height, corner lots must have the minimum lot size indicated in Table 8 above for each bonus as well as the minimum sidewalk width indicated in *Map 5: Required Sidewalk Width Map*. Corner Bonus projects are not required to match adjacent front yard setbacks in Section 5 below, but instead provide a front yard setback from the existing curb-line at the time of adoption sufficient to meet the minimum sidewalk width. Projects must also comply with the minimum floor-to-ceiling height requirements and required building setbacks. The Corner Lot Bonus is applicable to a maximum lot area of 20,000 square feet.
- (d) **Building Setbacks:** To provide light and air to adjacent lots, buildings taller than 4 stories must provide a "setback" from the property line at the following intervals:

Story Level	Front Setback	Side Setback	Rear Setback
1	none	none	none
2 to 5	none	none	30'
6	10'	none	30'
7 to 8	15'	10'	30'
9 and Up	See Tower on a Base Section IV: C		

Table 9

6) Yard Requirements

(a) Front Yard Requirements:

- (i) The front yard setback shall be sufficient to provide the minimum sidewalk width as indicated in *Map 5: Required Sidewalk Width Map*, measured from the ground floor building facade to the existing curb-line at the time of adoption. Example: If the existing sidewalk width is 10 feet, and the required sidewalk is 20 feet, then the front yard setback shall be 10 feet.
- (ii) Up to 30% of a building façade may be set back up to an additional 10 feet to accommodate outdoor seating areas or public space, but not for front yard car parking and must be designed to be impractical for such use.

(b) Side Yard Requirements:

- (i) Side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows.

(c) Rear Yard Requirements:

- (i) No rear yard is required, however a second floor step back of 30 feet is required as per Table 9 above.
- (ii) For through lots, a 50 foot "rear yard" is required at grade or above the first floor, and centered in the middle of the block.
- (iii) Corner lots must stepback on the second floor 30 feet from any adjacent property's rear property line.

F) ZONE 6: PRESERVATION

Situated with the original palisaded town of Bergen to the south, and Newark Avenue and Five Corners to the north; the Journal Square 2060 Redevelopment Plan Area has been the site of architectural endeavors for some 350 years. Although many early buildings have been razed in the development of the area, much remains to give us an idea of the area's development: socially, economically, architecturally, historically and culturally. Many resources remain that are locally significant and that still possess integrity of location, design, setting, materials, workmanship, feeling, and association. These buildings and streetscapes give the area a unique sense of place different not experienced elsewhere in the city.

During prior waves of development in the twentieth century, when the area's landscape changed from that of a suburban small town to the city's Central Business District, important buildings were demolished, altered, or moved. Development, especially in the first half of the twentieth century, was sometimes undertaken without examination and appreciation of past cultural and architectural development. This plan seeks to preserve important resources which help to define the unique character of the Journal Square area. This Zone shall preserve a wide variety of buildings characteristic of the area's varied development encompassing the seventeenth century Newkirk / Summit House, the eighteenth and nineteenth century Apple Tree House, Victorian brick townhouse rows, a Classical Revival Terrace on East Street, late 19th century mixed use developments and large early 20th century apartment buildings as well as churches, theatres and office buildings.

The properties that have been selected for Zone 6: Preservation have, paraphrasing the National Register Criteria for Evaluation:

- A. Been associated with events that have made significant contribution to the broad patterns of our history; or
- B. Are associated with the lives of persons significant in our past; or
- C. Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. Have yielded, or may be likely to yield, information important in prehistory or history.

To respect the special character that the Journal Square area has acquired and retained over the past three and one half centuries, the buildings included in this Preservation Zone shall be rehabilitated in accordance with the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties* so that future generations can be delighted by the history and architecture of the Journal Square Neighborhood.

- 1) Permitted Uses:
  - (a) All uses at their existing location at the time of adoption of this Plan are permitted.
  - (b) New uses shall be considered by the Planning Board on a case by case basis, guided by adjacent uses only. Because historic buildings in this zone are scattered throughout the Plan Area, and are situated in a variety of land use areas, the permitted uses in this zone must be contextual to the site.
- 2) Lot Size and Dimension Requirements
  - (a) All existing lots at the time of adoption of this plan are conforming lots.
  - (b) Subdivision is not permitted.
- 3) Height and Bulk Requirements
  - (a) The existing building height, floor area, established setbacks and the exterior building envelope as of the adoption of this Plan shall constitute the development standards of each building. Any change to the above standards shall constitute a deviation from this plan.
  - (b) Minor alterations in site plan and façade characteristics may be permitted by the Planning Board provided such alterations are consistent with the above standards for this zone. Any changes not consistent with this Plan are cognizable under a deviation application, and will be judged on their merits.
- 4) Yard and Coverage Requirements
  - (a) building coverage: existing
  - (b) lot coverage: existing
  - (c) front yard: existing
  - (d) side yard: existing
  - (e) rear yard: existing

- 5) Building Design Requirements
  - (a) All visible façades must retain historic building fabric where practicable. Architectural elements must be fully retained, preserved, restored, or recreated as necessary, based on site, photographic, or period documentation.
  - (b) Any rehabilitation is to be done in compliance with the *Secretary of the Interiors Standards and Guidelines for the Treatment of Historic Properties*
  - (c) All building must comply with all State or national historic register regulations.
  - (d) Parking is not permitted in this zone unless present at the time of adoption of this redevelopment plan.

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G) ZONE 7: DECO

The purpose of this zone is to retain and preserve the early twentieth century art-deco facades along Bergen Avenue while providing for vertical additions to these historic facades.

- 1) Permitted Uses:
  - (a) Residential: permitted everywhere except on the ground floor.
  - (b) Retail Sales of Goods and Services/Financial Services.
  - (c) Offices: permitted everywhere except on the ground floor.
  - (d) Art galleries.
  - (e) Live/Work units and home occupations: permitted everywhere except on the ground floor.
  - (f) Restaurants: category one and two.
  - (g) Hotels/Bed and Breakfast.
  - (h) Medical Offices: permitted everywhere except on the ground floor.
  - (i) Child and Adult Day Care Centers: permitted everywhere except on the ground floor.
  - (j) Night Clubs/Bars: on corner lots, provided no more than 60 decibels is measureable outside the establishment. Night clubs and bars are limited to 3000 square feet.
  - (k) Museum.
  - (l) Any combination of the above.
- 2) Lot Size and Dimension Requirements
  - (a) All existing lots at the time of adoption of this plan are conforming lots.
  - (b) Subdivision is not permitted.
- 3) Height Requirements
  - (a) Maximum building height: 8 stories and 85 feet
  - (b) Building Stepbacks: a 15 foot front stepback is required for any additions above the existing deco buildings along Bergen Avenue. A 5 foot stepback is required for any additions on Newkirk Street.
- 4) Yard Requirements
  - (a) The maximum permitted building and lot coverage shall be the existing building and lot coverage at the time of adoption of this Plan.
- 5) Building Design Requirements

- (a) All visible façades must retain historic building fabric where practicable. Architectural elements must be fully retained, preserved, restored, or recreated as necessary, based on site, photographic, or period documentation.
- (b) Any facade rehabilitation is to be done in compliance with the *Secretary of the Interiors Standards and Guidelines for the Treatment of Historic Properties*
- (c) The front façade of any roof top addition must include 75 % glazing which will minimize any impact the addition may have on the historic resource.
- (d) Parking is not permitted in this zone.

#### H) ZONE 8: BERGEN SQUARE

The purpose of this zone is to demarcate and preserve the footprint, block, and lot lines of the original Dutch settlement of Bergen, established in 1661. This zone provides for mixed use development respecting the established height limits and development context found in Bergen Square.

##### 1) Permitted Uses:

- (a) Residential: permitted everywhere except on the ground floor of buildings utilizing a corner height bonus.
- (b) Retail Sales of Goods and Services/Financial Services.
- (c) Offices.
- (d) **Medical Offices**
- (e) Art galleries.
- (f) Live/Work units and home occupations.
- (g) Restaurants: category one and two.
- (h) Bed and Breakfast.
- (i) Child and Adult Day Care Centers.
- (j) Night Clubs/Bars: restricted to Bergen Ave, provided no more than 60 decibels is measureable outside the establishment.
- (k) Schools.
- (l) Community Centers.
- (m) Government uses.
- (n) Museum.
- (o) Any combination of the above.

##### 2) Accessory Uses

- (a) Fences and seating walls.
- (b) Landscape features.
- (c) Improved Open Space.
- (d) Signs.
- (e) Rooftop Recreation.
- (f) Sidewalk Cafe: where sidewalk width permits.

##### 3) Prohibited Uses

- (a) Surface parking as a principal or accessory use.
  - (b) Drive-throughs pertaining to restaurants, banks, pharmacies, and other drive through uses.
  - (c) Gas stations, service stations, auto repair, auto body shops, and other automobile related uses (not including car share programs).
  - (d) Billboards.
- 4) Lot Size and Dimension Requirements
- (a) All existing lots at the time of adoption of this plan are conforming lots.
  - (b) Subdivisions must conform to the following minimum standards:
    - (i) Minimum lot area: 2500 square feet.
    - (ii) Minimum lot width: 25 feet.
    - (iii) Minimum Lot Depth: 100 feet.
    - (iv) Shape Factor Maximum: 30
- 5) Density and Height Requirements
- (a) Density is not regulated by floor area ratio or units per acre in this zone. Instead, a "building envelope" is defined, depending on the size and shape of the site. Minimum room and unit sizes are regulated by building code.
  - (b) Maximum and minimum building height shall be calculated based on the lot size according to the following table provided the required standards in the table are met:

Approximate Lot Dimension	Lot Area up to: (square feet)	Minimum Building Height (stories)/(feet)	Maximum Building Height (stories)/(feet)
	0 to 2499	2 / 22'	3 / 34'
25x100	2500 to 4999	2 / 22'	4 / 44'
50x100	5000 and up	3 / 32'	5 / 54'

Table 10

- (c) Building Stepbacks: To provide light and air to adjacent lots, buildings taller than 4 stories must provide a "stepback" from the property line at the following intervals:

Story Level	Front Stepback	Side Stepback	Rear Stepback
1 to 4	none	none	30'
5	10'	none	30'

Table 11

- 6) Yard Requirements
- (a) Front Yard Requirements:
    - (i) Front yard setback shall match the setback of the "Primary Building Façade" (see Article I of the Land Development Ordinance for definition of Primary Building Façade) on either side of the subject parcel, provided that the

building setback to be matched shall be closest to the predominant (most frequently occurring) setback on the block front.

- (ii) Where retail is required as indicated in *Map 4: Required Retail Use Map*, the front yard setback from the existing curb-line at the time of adoption shall be sufficient to provide the minimum sidewalk width as depicted in *Map 5: Required Sidewalk Width Map*, measured from the ground floor building facade to curb. Example: If the existing sidewalk width is 10 feet, and the required sidewalk is 20 feet, then the front yard setback shall be 10 feet.

(b) Side Yard Requirements:

- (i) Where the adjacent building is less than four stories, the minimum side yard setback shall be 10% of the lot width up to a maximum requirement of 10 feet and the minimum required by fire or building code to accommodate adjacent windows.
- (ii) Where a ground floor retail use is mandatory (see *Map 4: Required Retail Use Map*), side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows.
- (iii) Where the adjacent building is greater than 4 stories, or when the adjacent building is built on the lot line, side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows.

(c) Rear Yard Requirements:

- (i) A rear yard of 30 feet is required.
- (ii) Corner lots must stepback on the second floor 30 feet from any adjacent property's rear property line.

I) ZONE 9: PARKS

- 1) Parks, plazas, and other types of public open space are the only permitted at grade use in this zone. Underground parking facilities are also permitted beneath the required at grade park.

J) ZONE 10: TRANSITION

- 1) All parcels in Zone 10 must be submitted to the City Planning Division as a single site plan application, however construction may be phased.
- 2) A maximum of two buildings may be constructed in Zone 10, with the remainder of the zone developed as open space. One of the two buildings must be on Block 1863 Lot N25 adjacent to the historic Lowes Theatre. The second building must be situated south of the continuation of the Van Reipen Avenue right-of-way and a minimum of 40 feet from the Zone 2 boundary line.
- 3) The as-of-right building height shall be a maximum of 6 stories. This height limitation may be exceeded by constructing the un-built portions of Zone 10 as publicly accessible open space. Surface parking is not permitted. Each square foot of open space made available to the public may be converted to FAR applicable to the two permitted building sites at a ratio of 6:1. For example, 10,000 square feet of land designed as public open space will permit 60,000 additional square feet to be built above the permitted 6 stories. The building site on Block 1863 Lot N25 shall not be restricted in the amount of bonus FAR applied to this site, however any second building shall have a maximum height of 12 stories or 130 feet with applied bonus FAR.

- 4) The site plan for Zone 10 must be in conformity with all design requirements in Chapter VI as well as the required public sidewalk requirements found on *Map 5: Required Sidewalk Width*.

**K) ZONE 11: TRANSITION**

- 1) All land in Zone 11 must be submitted to the City Planning Board as a single site plan application, however construction may be phased.
- 2) Property in Zone 11 fronting on Summit Avenue, continuing to the east side of the West Street right-of-way and its extension to the south across Block 9604 Lot 11 and Block 10803 Lot 27 may utilize the development regulations of Zone 3 Commercial Center, with the following additional requirements:
  - (a) **Summit House Plaza:** A 30 foot side yard shall be provided along the southern property line of the Summit House at 510 Summit Avenue, one of the oldest buildings in the State of New Jersey. This yard area must be developed as a pedestrian plaza, and may include seating for restaurant or cafe type uses. Driveway egress only to Summit Avenue is permitted within the required plaza area.
  - (b) A 10 foot yard shall be provided along the eastern property line at the rear of the Summit House.
  - (c) No yard or building setbacks shall be required between any two buildings within Zone 11.
  - (d) Primary driveway entrance and exit must be from West Street.
  - (e) A 24 hour publicly accessible pedestrian easement and paved walkway shall be constructed along the full length of the southern property line of Block 10803 Lot 27 with a minimum width of 20 feet, running along the PATH rail tracks and connecting from Summit Avenue to the Zone 9 Park (see Map 5: Required Sidewalk Width Map).
  - (f) A building height bonus of 17 stories has been granted for this portion of Zone 11 due to the dedication of land for a public park. The maximum building height is therefore set at 42 stories and 440 feet.
- 3) Property in Zone 11 east of the West Street right-of-way and its extension to the south across Block 9604 Lot 11 and Block 10803 Lot 27 may utilize the development regulations of Zone 4 Neighborhood Mixed Use, with the following additional requirements:
  - (a) A publicly accessible pedestrian easement and paved walkway shall be constructed along the full length of the southern property line of Block 10803 Lot 27 with a minimum width of 20 feet, running along the PATH rail tracks and connecting from Summit Avenue to the Zone 9 Park (see Map 5: Required Sidewalk Width Map).
  - (b) Multi-level parking garages within this portion of Zone 11:
    - (i) shall have a height limit of 5 parking levels and 50 feet.
    - (ii) are required to provide a minimum 10 foot rear yard adjacent to Zone 6 and Zone 9.
    - (iii) shall not be required to provide building setbacks.

**XI) DEFINITIONS**

- A) All definitions shall refer to the Jersey City Land Development Ordinance.

**XII) MAPS**

- 1) Boundary Map
- 2) Zone Districts Map
- 3) Corner Lot Bonus Map
- 4) Required Retail Use Map
- 5) Sidewalk Width Map
- 6) Circulation Map

# JOURNAL SQUARE 2060

## MAP 2: ZONE DISTRICTS MAP

AUGUST 7, 2012

1 inch = 500 feet

0 250 500 1,000 Feet



### Zone Districts

Zone 1: Core

Zone 2: Air-Rights

Zone 3: Commercial Center

Zone 4: Neighborhood Mixed Use

Zone 5: Commercial Main Street

Zone 6: Preservation

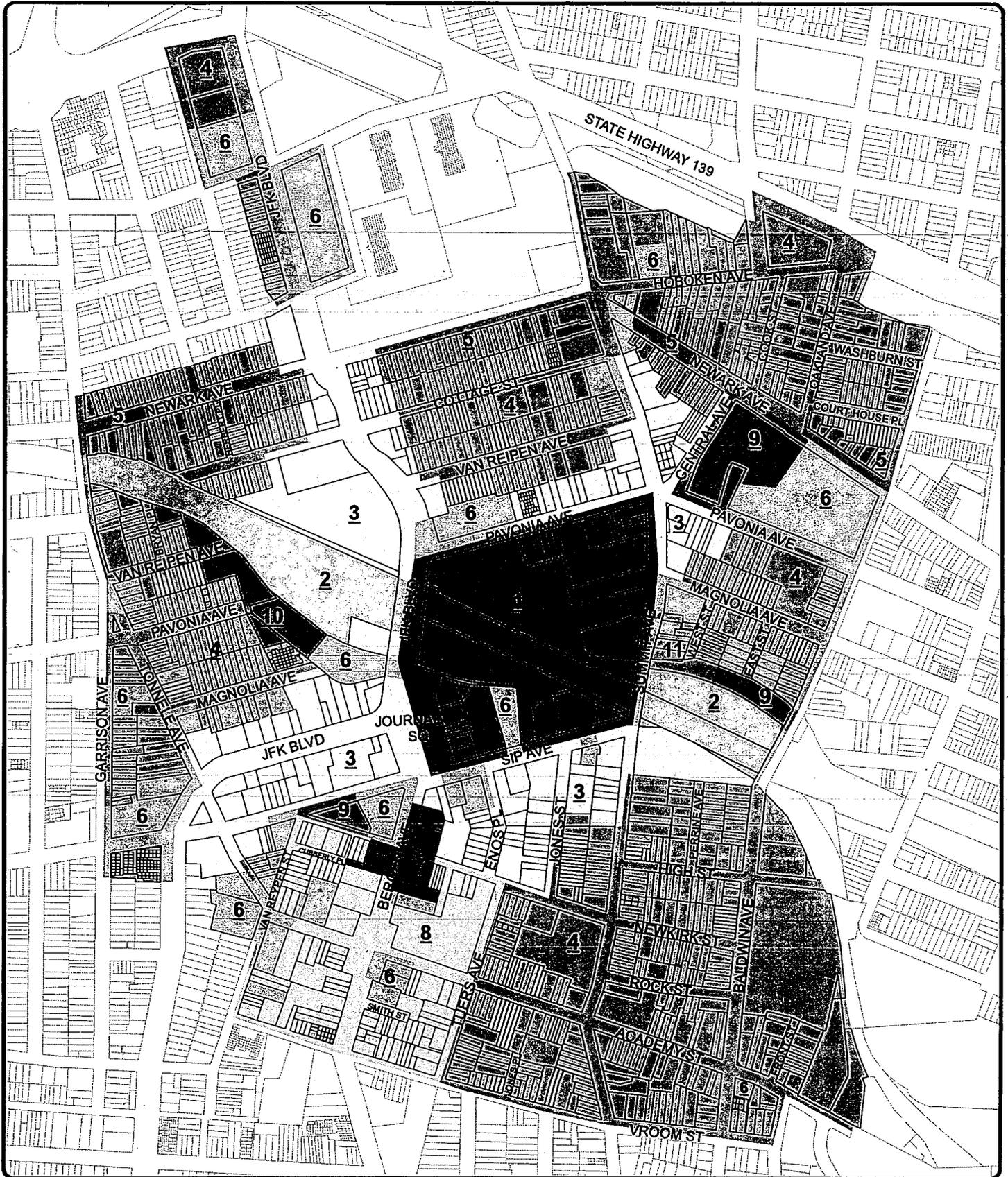
Zone 7: Deco

Zone 8: Bergen Square

Zone 9: Parks

Zone 10: Transition

Zone 11: Transition

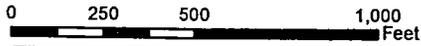


# JOURNAL SQUARE 2060

## MAP 5: REQUIRED SIDEWALK WIDTH MAP

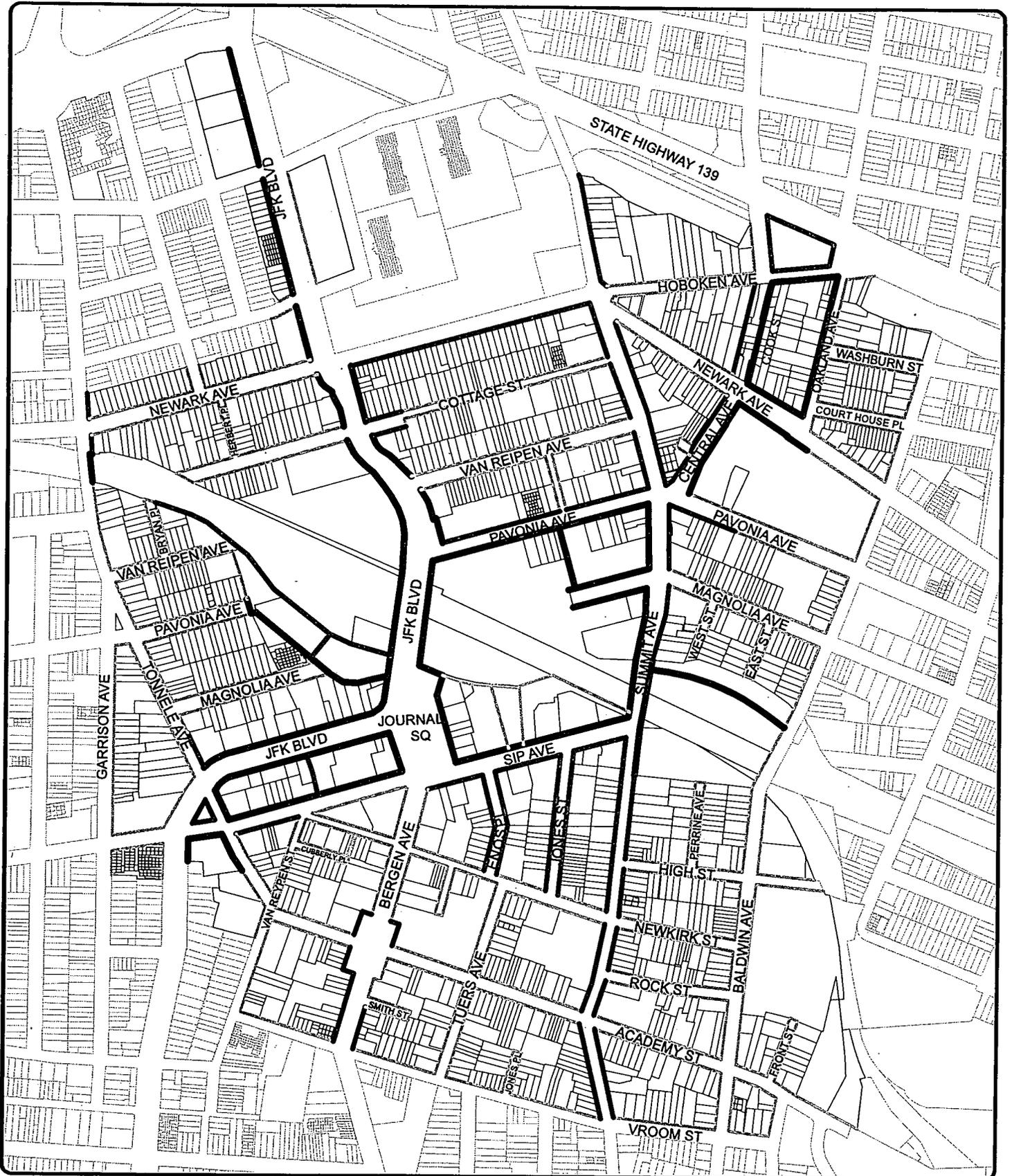
AUGUST 7, 2012

1 inch = 500 feet



## Sidewalk Width Requirements

- 20 Foot Minimum Sidewalk Width
- 15 Foot Minimum Sidewalk Width
- Prevailing Width (Minimum of 8')



City Clerk File No. Ord. 12-142

Agenda No. 3.C 1st Reading

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



# ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-142

TITLE: **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO THE EXCHANGE PLACE NORTH REDEVELOPMENT PLAN TO CODIFY THE PLANNING BOARD APPROVALS GRANTED 70-90 COLUMBUS DRIVE**

WHEREAS, the Local Redevelopment & Housing Law, N.J.S.A. 40A:12A-1et seq. permits municipalities to amend regulations dealing with areas declared to be "in need of redevelopment" and "in need of rehabilitation"; and

WHEREAS, this Redevelopment Plan was adopted on February 3, 1983 and amended subsequently, most recently on September 27, 2012; and

WHEREAS, this Redevelopment Plan was intended to provide for the construction of residential and commercial development within comprehensively planned districts along the Hudson River; and

WHEREAS, the proposed amendment will amend the redevelopment plan to reflect the approvals granted by the Jersey City Planning Board; and

WHEREAS, at its meeting of October 16, 2012, the Jersey City Planning Board, discussed the proposed amendments and unanimously recommended that the Municipal Council adopt the proposed amendments; and

WHEREAS, the Redevelopment Plan, reflecting the proposed amendments, is attached and made a part hereof and is available for public inspection at the Office of the City Clerk in 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 proposed Redevelopment Plan, as Recommended by the Jersey City Planning Board on October 16, 2012 be, and hereby is, adopted.

**BE IT FURTHER ORDAINED THAT:**

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

APPROVED AS TO LEGAL FORM

Corporation Counsel

APPROVED:

APPROVED:

Business Administrator

Certification Required

Not Required

**ORDINANCE FACT SHEET**

1. Full Title of Ordinance/Resolution/Cooperation Agreement:

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO THE EXCHANGE PLACE NORTH REDEVELOPMENT PLAN TO CODIFY THE PLANNING BOARD APPROVALS GRANTED 70-90 COLUMBUS DRIVE**

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

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

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

This ordinance amends the Exchange Place North Redevelopment Plan to codify all approvals granted by the Planning Board at its meeting of July 24, 2012.

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

Planning Board approvals have been challenged by the Port Authority of New York and New Jersey. This amendment could render that lawsuit moot.

5. Anticipated Benefits to the Community:

Allow the approved project to proceed expeditiously, bringing jobs and economic growth to the City.

6. Cost of Proposed Program, Project, etc.:

No expense to the city. Developer paid all fees for this request.

7. Date Proposed Program or Project will commence:

It will commence upon approval of the redevelopment plan amendment.

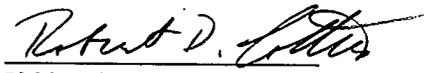
8. Anticipated Completion Date: N/A

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

Robert D. Cotter, FAICP, PP, Planning Director (201) 547-5050

10. Additional Comments: None

I Certify that all the Facts Presented Herein are Accurate.

  
Division Director

OCTOBER 16, 2012  
Date

  
Department Director Signature

10-16-12  
Date

# SUMMARY SHEET

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING  
AMENDMENTS TO THE EXCHANGE PLACE NORTH REDEVELOPMENT PLAN TO CODIFY THE  
PLANNING BOARD APPROVALS GRANTED 70-90 COLUMBUS DRIVE**

This amendment will make all of the approvals granted by the Jersey City Planning Board, at its meeting of July 24, 2012, for the project known as 70-90 Columbus Drive, a part of the Exchange Place North Redevelopment Plan. In effect, the site plan approval, with all requests for deviations and waivers, which were granted by the Planning Board, will become the zoning for this project.

# EXCHANGE PLACE NORTH REDEVELOPMENT PLAN

ADOPTED: FEBRUARY 3, 1983  
WITH AMENDMENTS THROUGH:

MARCH 1986 : Ord. MC-356  
AUGUST 1987 : Ord. C-17  
JUNE 23 1999 : Ord. 99-080  
JANUARY 12 2000 : Ord. 99-189  
APRIL 12 2000 : Ord. 00-029  
NOVEMBER 28 2001: Ord. 01-127  
JUNE 13 2007 : Ord. 07-100  
JANUARY 12, 2011 : Ord. 10-175  
JUNE 29, 2011: Ord. 11-072

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## **I. INTRODUCTION**

The purpose of the Exchange Place North Redevelopment Plan is to provide a comprehensive development plan that will assure future development within the project area. This is in keeping with the area's tremendous value and potential, given its proximity to the Hudson River waterfront, mass transit facilities and existing office and residential development along Montgomery Street. The Redevelopment Plan will serve to guide the physical development of the area, producing a unified relationship of buildings to each other and to the land and waterfront, to the Manhattan skyline, to existing and proposed roads and transit facilities, and to the existing surrounding neighborhoods and districts of Downtown Jersey City.

The setting for the Exchange Place North Redevelopment Plan is an area of approximately sixty (60) acres located on the Hudson River and just north of Exchange Place and Christopher Columbus Drive. The site abuts Jersey City's only area zoned C4 - Finance and Business, and yet the Study Area has never received the intensity of development evident in the Montgomery Street/Exchange Place area.

The Exchange Place PATH station is a short walk from most of the Redevelopment Area, as is the Grove Street PATH Station and Newark Avenue commercial shopping district, which abuts the site to the west. To the north and west of the area is the City's Warehouse District.

All of the existing development within the Study Area was or still is dependent upon railroads. As the railroads declined so did the properties they served. A new day is dawning in Jersey City and in the Exchange Place North Area as well. The Redevelopment Plan that follows will attempt to foresee that day and provide for and anticipate the development that inevitably will occur.

## **II. EXCHANGE PLACE NORTH STUDY AREA - BOUNDARY DESCRIPTION**

\* The Boundary Description is superseded by a Boundary Map as authorized by the City Council Amendment adopted January 12, 2000.

All of Blocks 8.1, 8.2, 8.3, 9, 11; Lots A, C9, C25, D of Block 15; all of Blocks 74, 75, 76, 104-105, 138; Lot S1 (vacated portion of Hudson street north of Christopher Columbus Drive)

BEGINNING at a point at the intersection of the centerline of Luis Munoz Marin Boulevard (formerly Henderson Street) and the centerline of Steuben Street, thence

in an easterly direction along the centerline of Steuben Street to a point at its intersection with the centerline of Washington Street, thence

in a northerly direction along the centerline of Washington Street to a point an its intersection with the centerline of First Street, thence

in an easterly direction along the centerline of First Street to a point at its intersection with the western block limit line of Block 15, thence

in a southeasterly direction along said block limit line to a point at its intersection with the southern lot line of Lot S of Block 15, thence

along said lot line in an easterly direction 238.63 feet to a point at its intersection with the northeastern lot line of Lot C9 of Block 15, thence

along said lot line in a southerly direction 208 feet to a point at its intersection with the northern lot line of Block 15, Lot C25, thence

in an easterly direction along said lot line and the northern block limit of Block 11 to a point with its intersection with the modified Pier-head Line dated January 12, 1931, thence

in a southerly direction along said Pier-head to a point at its intersection with the southern block limit line of the southern block limit line of Block 11, thence

in a westerly direction 693.49 feet to a point, thence

turning northerly along a line running 125 feet north/south along the block limit line of Block 11 to a point at its intersection with extension of the centerline of Christopher Columbus Drive (formerly Railroad Avenue), thence

in a westerly direction along said centerline to a point at its intersection with the centerline of Luis Munoz Marin Boulevard to the point and place of BEGINNING, herein described

### **III. REDEVELOPMENT PLAN OBJECTIVES**

Renewal activities for Exchange Place North (hereinafter referred to as "The Project") will be undertaken in conformity with, and will be designed to meet, the following objectives of this Redevelopment Plan:

- A. The elimination of substandard buildings and other deteriorated and obsolete structures, including dilapidated piers and bulk heading, and the elimination of blighting influences such as incompatible land uses
- B. The improvement of the functional and physical layout of the project area for contemplated new development and the removal of impediments to land disposition
- C. The overall improvement of traffic circulation through development of new circulation systems which provide for separation of vehicular and pedestrian traffic, as well as for the maximum use of public transportation

- D. Creation of a well planned development area which will provide opportunities for permanent employment, housing, commercial and retail facilities within an area that is currently underutilized, contains substandard and obsolete structures and has physical impediments, all of which prevent sound development unless undertaken in a broad and comprehensive scale
- E. Coordination of redevelopment activities to provide a uniform attack on blight which reinforces already existing renewal and improvement programs in adjacent areas, in accordance with a plan that integrates the Exchange Place North area with the rest of Jersey City
- F. Take full advantage of the unique location of the Redevelopment Area along the Hudson River, directly opposite the scenic Manhattan skyline and proximate to two PATH stations
- G. Expand the City's tax base by encouraging development of high intensity land uses, in keeping with the character of the area's adjacent high rise office and residential developments.
- H. Encourage and provide for a variety of land uses which will generate and encourage a community active around the clock, populated by residents, business workers, and support personnel
- I. Maximum participation by private sector developers with minimum assistance from the public sector
- J. Coordinate redevelopment activities to provide a uniform and consistent attack on blight within the physical structure of Jersey City
- K. Provide site improvements for the beautification of the Redevelopment Area and surrounding areas
- L. Protect and preserve historic properties by providing opportunities for adaptive reuse consistent with the Redevelopment Plan
- M. To promote balanced development in accordance with the Fair Housing Act, NJSA 52:27D-311, and the Housing Element and Fair Share Plan of the City of Jersey City Master Plan.

#### **IV. TYPES OF PROPOSED REDEVELOPMENT ACTIONS**

It is proposed to substantially improve and upgrade the Exchange Place North Study Area through a combination of redevelopment actions. These will include but not be limited to:

- A. Acquisition of and/or demolition of structures determined to be impediments-to sound and comprehensive redevelopment
- B. Retention and rehabilitation of sound compatible structures.
- C. Assemble into development parcels the vacant and underutilized land now in scattered and varied ownership
- D. Provisions for a full range of public infrastructure necessary to service and support the new development
- E. Construction of new structures and complementary facilities

## V. BUILDING DESIGN REQUIREMENTS FOR NEW CONSTRUCTION

- A. All structures within the project area shall be situated with proper consideration of their relationship to other buildings, both existing and proposed, in terms of light, air, and usable open space, access to public rights of way and off-street parking, height and bulk
- B. Groups of related buildings shall be designed to present a harmonious appearance in terms of architectural style and exterior materials.
- C. Buildings should be designed so as to be attractive from all vantage points
- D. Christopher Columbus Drive shall be maintained as an important view corridor by the use of stepbacks
- E. All structures within the project area shall be designed and maintained so as to improve the visual impact of the Jersey City shoreline as viewed from within and beyond the City's borders
- F. Access by the elderly, physically handicapped and/or disabled shall be required. Design standards shall meet, at a minimum, barrier free design regulations as specified in the Uniform Construction Code. Handicapped parking requirements shall meet, at a minimum, regulations as specified in the Municipal Code.
- G. All residential development proposals and construction plans shall meet minimum room size requirements as specified in the Municipal Code prior to approval by the Redevelopment Agency and the Planning Board
- H. To the maximum extent feasible, sight-lines along Washington Street, specifically the view of the Statue of Liberty, shall be preserved and protected
- I. Within Block 13003 (formerly Block 138), it is encouraged that any parking structure that fronts along Steuben Street be screened to the fullest extent possible by alternate uses or façade treatments. To promote this screening within Block 13003, it is encouraged, but not required, that residential development be provided on the first two (2) stories by wrapping the base structure with residential units along Steuben Street to enhance the residential neighborhood. Alternate uses and designs may be used to meet the intent of this design standard.
- J. The Grove Street PATH Station tunnel entrance to Block 13003 is located at or near the intersection of Luis Munoz Marin Blvd and Christopher Columbus Drive. A public pedestrian plaza area shall be accommodated for within this project site to facilitate access to the recently constructed entrance to the Grove Street PATH Station that is located at the corner of Luis Munoz Marin Blvd and Christopher Columbus Drive.

## VI. DESIGN REQUIREMENTS FOR BUILDINGS AND PARKING STRUCTURES

**A. All Buildings Shall Have A "Base"** which shall be designed according to the following:  
[see Figure 1]

1. The base facade shall be from fifteen (15) to eighty five (85) feet in height
2. The base facade shall be constructed of masonry, including but not limited to stone, brick, textured concrete etc. Glass shall constitute between forty percent (40%) and seventy five percent (75%) of the surface area of the base. If an arcade is provided, open space can be used in place of glass. If the base facade is greater than two (2) stories then the first two stories must have a minimum of 75% glass area, except for the glass being omitted or replaced as permitted by Item VI.D.1, for parking, utility purposes, or otherwise, and except where residential units are to be incorporated into the building's base. Where residential units are incorporated into the base, the residential facades shall incorporate individual window openings, entrance doorways, with stoops and other architectural fenestration and elements that are characteristic of the surrounding neighborhood.
3. At the top of the base it is recommended that there be a visual cue or indicator such a cornice, belt coursing, a change in the glass to solid ratio or any other indicator consistent with the design, proportions and materials of the base . As a substitute for the recommended stepback, a minimum of ten (10) feet from the outermost edge of the base may be provided. If utilized, the stepback may occur at a minimum of thirty (30) feet and a maximum of eighty-five (85) feet from grade.
4. All measurements specifying heights shall be taken from the average finished grade level for the perimeter of the building

**B. Stepbacks** - In modern style buildings, employing a varied mix of stepbacks, setbacks, and building plains, 10% of the building frontage may maintain no stepback..

\*Stepback Exemption for Tax Block 8 - For parking structures located on this parcel which contain a maximum of 7 parking levels and a minimum of three commercial floors above the parking, the elevator core and stairwell portion of the structure shall not be required to adhere to the stepback standards intended for buildings over 120 feet.

\*Step-back exemption for Block 10, Lot 1 (Plaza 4) – Buildings located on this site shall contain a curved brick façade on the east and south elevations. Window opening and window treatment shall appear uniform throughout all floors of the curved brick façade. Building conforming to these requirements shall not be required to step-back a minimum of 10 feet from the outermost edge of the base between 30 feet and 100 feet above grade.

\*Step-back exemption for Tax Block 13003 - For parking structures and buildings located within this Tax Block, modern style buildings that provide for open pedestrian plaza space to compliment and provide access to the Grove Street PATH Station and ground level mixed uses, and that provide for architectural elements and façade treatments that result in architectural breaks and protrusions from the facades, shall not be required to adhere to the stepback standards intended for buildings over 120 feet.

1. All buildings exceeding one hundred twenty (120) feet shall be required to step back a minimum of ten (10) feet from the outermost edge of the base, on all sides of the structure. The setback shall occur at a minimum of thirty (30) feet and below the maximum of one hundred twenty (120) feet from grade (the setback option defined in item A. 3. of this Section, if chosen, shall satisfy this requirement). [ see Figure 2]
2. All buildings exceeding one hundred twenty (120) feet shall be required to have one setback or a combination of setbacks to meet one of the following options:
  - a. setbacks on four (4) or more sides with a minimum total of twenty five (25) feet per side  
[see Figure 3]
  - b. setbacks on three (3) sides with a minimum total of thirty (30) feet per side  
[see Figure 4]
  - c. setbacks on two (2) sides with a minimum total of forty (40) feet per side
  - d. Residential Buildings located diagonally on the site shall be setback from the building's base a minimum of ten (10) feet on all sides. Additional setbacks of 25 feet shall be provided on at least two sides no higher than 200 feet above the top of the building's base (see figure13) on the diagonal.

(OR)

- e. Residential Buildings that are set parallel to the property lines shall be setback from the building's base a minimum of ten (10) feet on all sides. Additional setbacks of 25 feet shall be provided at all property lines no higher than 75 feet above the top of the building's base (see figure 14).

Nonrectangular buildings may use the average of two (2) or more adjacent sides when calculating setback requirements. [see Figure 5]

Figures are inclusive of the ten (10) feet required in Item B. 1. of this Section and/or Item A. 3. of this Section, if the setback option is chosen to define the base

3. Setbacks occurring within the top ten percent (10%) of any building exceeding one hundred twenty (120) feet shall not count toward meeting the requirements listed above  
[see Figure 6]
4. Buildings under one hundred twenty (120) feet are not required to use setbacks

**C. Roof Treatment, Mechanical Screening And Electrical Equipment**

1. All buildings exceeding one hundred twenty (120) feet shall have a significant top designed to gracefully cap the structure. In lieu of a significant top, buildings may be permitted to use articulated elements that create the perception of a top or cap. Lighting of this top shall be encouraged. [see Figure 7]

2. All major mechanical equipment located on any roof of a building shall be screened from view from all vantage points with a material harmonious to that used in the facade of the structure. The screening shall not impair the functioning of the equipment.
3. All electronic communication equipment shall be mounted in such a way that it does not negatively impact the appearance of the building nor create objectionable views as seen from surrounding structures.

#### **D. Parking**

1. Where a parking use occupies the lower levels of a building, and the structure's primary use is not parking, a maximum of fifty percent (50%) of the ground level perimeter of the building may be occupied by a parking or mechanical use. The fifty percent (50%) shall be located on the least heavily used pedestrian facade, shall be completely screened and shall be constructed of masonry as used in the base. The ground level masonry facade shall be articulated -in a manner providing visual interest. [see Figure 8]  
Ingress and egress to the parking levels shall be included in the fifty percent (50%) calculation. The remaining fifty percent (50%) of the ground level perimeter shall be occupied by any permitted or accessory use other than parking or mechanical. Parking and/or mechanical uses may occupy one hundred percent (100%) of the perimeter above and/or below the ground level.

The structure shall have a base as specified in Item VI. A. Glass may be omitted or replaced by a material allowing the passage of air above the ground level.

Masonry, as used in the base, may also be substituted on all levels in place of glass. Provisions for setbacks as described in Item VI. B. shall apply.

2. All surface parking and parking structures shall be set back a minimum of ten (10) feet from the property line, except as necessary to provide ingress and egress and when meeting the requirements of 3 & 4 below. This setback area shall be landscaped to provide buffer and visual screening. The facade of the parking building shall be of a compatible material to that used throughout the development. [see Figure 9]
3. Where any side of the ground level of a parking structure is occupied by a permitted or accessory use other than parking and/or mechanical, that side of the building may be located up to the property line. The side(s) of the parking structure located at the property line shall have a base as specified in Item VI. A. Glass may be omitted or replaced by a material allowing the passage of air above the ground level. Masonry as used in the base may also be substituted for glass above the ground level. [see Figure 11]
4. Where any side of the ground level of a parking building is concealed behind a solid masonry wall, that side of the structure may be located up to the property line. This masonry facade shall be articulated in a manner providing visual interest. The above referenced side shall have a base as specified in Item VI. A. Glass may be omitted or replaced by a material allowing the passage of air above the ground level. Masonry matching that required on the ground level may also be substituted in place of glass on all levels. [see Figure 10]
5. All open parking structures shall be designed to eliminate headlight glare. Opaque screening

the full height of the opening of spandrels rising a minimum of forty two inches (42") from the floor line shall be required.

6. Parking requirements can be found in the Parking/Loading section of this plan.
  - a) At least (1) one parking space shall be included within the residential leasehold for a minimum of 65% of the proposed dwelling units. The remaining 35% of residential parking spaces, if unused by the residential tenants, shall be subleased to the retail tenants of the project. Residential parking may not be subleased to the office portion of the project and no parking shall be leased as general parking or commuter parking.
  - b) A parking validation mechanism shall be implemented to insure all parking deck users are residents, retail shoppers, or employees of the office building within the tower portion of the project.

#### **E. Site guidelines**

1. All trash receptacles shall be anchored and/or enclosed, and adequately screened
2. No chain link fencing shall be permitted
3. Wherever roofs can be seen or looked down upon from adjacent buildings a roofscape design plan must be developed and submitted for approval. Roofscapes should include mechanical equipment trellises to obscure view, colored roof patterns and landscaping. Parking decks should be designed so as to obscure the view of broad expanses of parking with the use of landscaping, screens, trellises and roofs.
4. Generators for the buildings are to be located on the interior of the buildings, incorporated into the design of the façade, and not located at or near pedestrian or lower levels of the building.

#### **F. Coverage and floor area ratio**

1. The maximum permitted coverage for all principal and accessory uses shall not exceed seventy five percent (75%) – Except that for tax block 138, the maximum permitted coverage for all principal and accessory uses shall not exceed ninety percent (90%) of the total site (excluding water areas) controlled by a single owner or designated developer
2. No part of the remaining site shall be left unimproved
3. Floor area ratios shall be defined for each specific use district in the appropriate section of this Plan. Any portion of an existing lot which is dedicated for use as the public Right of Way of Pearl Street will be permitted to be used by the developer of that lot in determining FAR and density for such lot.
4. Within Block 13003, sidewalk widths shall be increased to an average of Twelve (12) feet wide along Christopher Columbus Drive. The sidewalk widths shall be designed to maximize the widths of the sidewalks. Flood plain elevations will have an effect on development within Block 13003, and therefore, the Planning Board shall have the ability to vary the required average slightly after review of individual site plan circumstances. A minimum sidewalk width of twelve (12) feet shall also be provided along Steuben Street, Warren Street, and Luis Munoz Marin Boulevard. Sidewalk widths

may be increased by the use of building setbacks, colonnades, etc. Streets shall not be decreased in width in order to increase sidewalk widths.

**G. Signage**

1. One hotel identification sign shall be permitted on each frontage. The maximum sign area for each façade sign shall not exceed the following:

- North and South façade identification signs shall not exceed 150 sq. ft.
- West façade identification sign shall not exceed 250 sq. ft.
- East identification façade sign shall not exceed 700 sq. ft.

Each identification sign shall not be directly illuminated or encased in plastic or similar translucent material. It may be indirectly illuminated and it must be consistent with the architecture of the building.

2. Residential

One (1) sign may be allowed, not to exceed fifty (50) square feet

3. Parking garages and lots

One (1) sign per vehicular entrance may be allowed, indicating the parking facility by the international parking symbol and a directional arrow, and not to exceed ten (10) square feet. One (1) sign per vehicular entrance may be allowed indicating parking rates, not to exceed twelve (12) square feet.

4. Retail sales, restaurants & health clubs, theaters, & night clubs

Each such use fronting on a public street may be allowed one (1) exterior sign, not to exceed ten percent (10%) of the area of the ground floor to which it is attached. Additionally, theaters and night clubs may have a marquee not to exceed fifty (50) square feet.

5. Sign standards

- a. all signs shall be flush mounted and project no more than fifteen (15) inches from the face of the building
- b. no sign shall be flashing or animated
- c. Roof signs are prohibited
- d. billboards and signboards are prohibited
- e. above the ground floor level, window signs are prohibited

- f. Freestanding signs, except for marinas and regulatory signs indicating transportation, circulation and parking are prohibited
- g. All signs are subject to site plan review
- h. Kiosks listing tenants and giving directions may be provided. Such kiosks shall not exceed forty (40) square feet, or its circular equivalent, in sign area
- i. A pedestrian oriented monument sign, of materials consistent with the sidewalk and plaza design may be permitted provided the scale, design and material is acceptable to the Planning Board, and site plan approval is revived.
- j. Banners both temporary or permanent shall be considered as signs and subject to the standards and terms of this ordinance.

**H. Streetscape**

- 1. A unifies streetscape plan for is required for all phased projects. The street scape plan shall be presented to, and receive approval by, the Planning Board and be implemented and applied to all project sites as they are developed. This plan shall identify a decorative sidewalk, color, and materials standards for the outer 5 to 7 feet of sidewalk. It shall also include tree guards, tree grates and other decorative street furniture to be employed within the plan area, including but not limited to: benches, trash receptacles, newspaper vending box style, dimension and placement, kiosks, etc.
- 2. The construction of underground utility connections and decorative lighting poles and fixtures is required. They shall be selected from the public utility decorative standard fixtures. They shall be purchased by private capital expenditure. They shall not be leased by the City.

**VII. SPECIFIC OBJECTIVES**

**A. Submission of a master plan**

In order to achieve more comprehensive multiphase development, for projects exceeding one square block and five (5) acres, a master plan shall be presented to the Planning Board prior to submission of individual site plans. The master plan shall be consistent with the provisions of the Redevelopment Plan governing the site. Individual site plans that provide for less density than the approved Master Plan shall be considered consistent. The Master Plan shall, at a minimum, include the following elements:

- 1. Overall development site plan for the district specifying maximum height, densities, uses, floor area ratios and square footage within proposed district

2. Traffic & circulation analysis and plans, which shall include-mass transit routes. Each time the Master Plan is significantly revised, a full traffic analysis shall be provided to the City for review. This analysis shall include the cumulative effect of the ingress and egress to all Project Phases and Plazas, the impact of the Light Rail relocation, Greene Street redesign, and affects on other adjacent and affected roadways created by the overall floor area proposed and projected by the Master Plan.
3. Parking and vehicular access plan
4. Environmental impact analysis
5. Utilities plan
6. Phasing plan
7. Fiscal impact analysis

Subsequent applications for preliminary site plan approval for specific elements or phases shall be consistent with the master plan. In reviewing such specific applications for preliminary site plan approval, the Planning Board may rely upon the studies submitted and reviewed during the master plan hearing, except that traffic analysis shall be provided for each site plan if determined necessary by the Director of City Planning. The Planning Board shall determine which major revisions of the master plan shall be required to come before the Planning Board for review.

#### **B. Submission of redevelopment proposals**

Prior to commencement of construction, architectural drawings, specifications, and site plans for the construction and/or rehabilitation of improvements to the Redevelopment Area shall be submitted by the redevelopers for review and approval by the Planning Board, and if designated as the redeveloper (“designated developer”) by the Jersey City Redevelopment Agency (“JCRA”), then the plans shall also be submitted to the JCRA for review and approval.

#### **C. Adverse influences**

No use or reuse shall be permitted, which, when conducted under proper and adequate conditions and safeguards, will produce corrosive, toxic or noxious fumes, glare, electromagnetic disturbance, radiation, smoke, cinders, odors, dust or waste, undue noise or vibration, or other objectionable features so as to be detrimental to the public health, safety or general welfare. It shall be presumed that the permitted uses within this Redevelopment Plan are not adverse influences.

#### **D. Off-street parking and loading objectives**

1. Off-street parking and loading areas shall be coordinated with the public street system serving the project area in order to avoid conflicts with through traffic or obstruction to pedestrian walks and thoroughfares
2. A minimum of ten percent (10%) of any surface parking facility shall be landscaped area and shall include shade trees of at least two and a half (2.5) inch caliper spaced not more than forty (40) feet on center or in groupings
3. Large concentrations of surface parking should be avoided. Poured in place concrete curbing or some other suitable material, such as granite, shall be used in parking areas to prevent vehicles from encroaching upon planted area. Under no circumstances shall bumper stops be permitted on the exterior of the building. All curbing, regardless of material used, is subject to Planning Board approval.
4. All parking and loading areas abutting streets in residential zones shall be landscaped about their periphery with berms, shrubs, trees and/or ground cover
5. All required parking and loading areas shall be provided off-street. All such parking and loading areas shall be graded, paved with a durable dust-free surface, adequately drained, well landscaped, and all access points shall be defined and limited in accordance with the Jersey City Zoning Ordinance.
6. All required parking spaces shall be a minimum of nine (9) feet wide by eighteen (18) feet deep, as measured from the curb stop. All aisles shall be twenty two (22) feet wide. Fifty percent (50%) of parking stalls may be compact, a minimum of eight (8) feet wide by fifteen (15) feet deep.
7. Required off-street parking shall be located on the same site for residences, but otherwise may be provided on a separate lot, if such offsite off-street parking is within seven hundred (700) feet of the use it was intended to serve
8. Valet parking may be allowed if it can be demonstrated that an efficient, safe means of operation will be provided
9. Where the master plan has been reviewed and accepted and its elements are to be built in stages, the developer shall be permitted to construct the maximum number of parking spaces provided for under the master plan subject to the following:
  - a. The developer shall build sufficient parking spaces to accommodate the entire area of development receiving preliminary site plan approval
  - b. In cases where a single parking structure is to accommodate the parking for each of the proposed uses and phases of a development; the developer shall be permitted to construct the single parking structure containing the allowable spaces for the entire development in conjunction with the construction of the first phase of the development,

provided that the developer has received preliminary site plan approval and further provided that the number of parking spaces which may be available for use shall not exceed the maximum permitted spaces for the phase or phases which have received preliminary site plan approval. Interim uses for the excess parking shall not be permitted.

- c. The parking ratio for the excess spaces built, as referenced in Item B. above, shall be determined at the time of preliminary site plan approval for the phase of construction served by these parking spaces
- d. On weekdays, the excess spaces shall be available only after 9 AM, and shall be designated as visitor parking

10. Maximum off-street parking requirements/ interim policy

- a. residential -  
1.0 space per unit
- b. offices/museums -  
1.0 space for every 1000 square feet of gross floor area up to 660,000 square feet  
.9 space for every 1000 square feet of gross floor area above 660,000 square feet  
Within Block 138, parking spaces for Office Use shall meet the following MAXIMUM requirements:  
1 Space/1000 sf. of gross floor area up to 500,000 sf.  
.5 Space/1000 sf. of gross floor area over 500,000 sf.
- c. hotels -  
1.0 space per room up to 100 units  
.5 space-per room for 101 to 250 units  
.3 space per room for 251 to 500 units  
.0 space per room for 501 units & above
- d. retail, restaurants, health clubs, night clubs -  
.5 space per 1000 square feet of gross floor area
- e. theaters and convention centers  
1.0 space per 8 seats
- f. marinas - .33 space per berth
- g. heliports - no parking spaces are required

The above maximums are interim standards; a final determination on parking requirements will be made pending release of a Traffic Engineering Division analysis in the fall of 1987. All developers shall abide by any reduction in the permitted maximums for site plans

submitted subsequent to the completion of this study, and adoption of a long-term policy which shall replace the above interim standards. -

#### 11. Off-street Loading - Maximum Requirements

All loading shall be off-street and not discernable from outside view. Any pre-existing outdoor loading/service areas shall be screened by a solid brick wall, that matches in style the appearance and style of the primary building the loading serves.

Adequate provision shall be made for maneuvering vehicles

All loading areas shall be screened and landscaped.

#### E. Open space design objectives

1. Fifteen percent (15%) of the total site (excluding underwater area) controlled by a single owner or designated developer shall be required to be improved/ landscaped open space. This open space shall be divided into two (2) categories--

a. totally accessible open space which shall be open to the public twenty four (24) hours per day and shall include:

- sidewalks with trees
- landscaped medians
- bicycle paths
- parks
- plazas
- arcades, defined as partially covered
- public walkways
- waterfront promenades
- landscaped buffer areas greater than ten (10) feet in width

Totally accessible open space shall be calculated at one hundred percent (100%) of the actual area

b. limited access open space, which shall be open to the public a minimum of twelve (12) hours per day and shall include:

- atriums or a large open public space area enclosed primarily by glass
- enclosed commercial arcades
- elevated plazas

Limited access open space shall be calculated at fifty percent (50%) of the actual site area

2. All open space, including plazas, shall be designed -with lawns, trees, shrubbery, attractive paving materials, street furniture, lighting and other architectural and artistic amenities to produce and provide a pleasant environment at street level to compliment the building and project area. Open space and plazas shall be designed to invite and attract the public. Elevated open space and plazas must also be so designed.
3. All screen planting shall be coniferous and only species with proven resistance to the urban environment in this area will be acceptable. Screen planting shall be a minimum of four (4) feet in height. Material shall be planted, balled and burlapped and of specimen quality as established by the American Association of Nurserymen. At initial planting the materials shall provide a screen from the top of the planting to within six (6) inches of grade. Other plant materials shall be dense, and of specimen quality determined as above. All deciduous trees shall be a minimum of two and one half (2.5) inches in caliper. All plants, trees and shrubs shall be installed in accordance with a planting schedule provided by the developer and approved by the Division of Urban Research and Design.
4. any landscaping which dies due to natural cause or vandalism within two (2) years of planting shall be replaced by the developer at their expense
5. all landscaped areas shall be serviced by underground watering facilities

**F. Restriction Of Occupancy Or Use**

There shall be no restriction of occupancy or use of any part of the project area on the basis of race, creed, color or national origin

**G. Circulation And Landscaping Design Objectives**

1. Unless unpaved, all open space shall be landscaped and maintained in an attractive condition
2. Open space for new construction shall be provided to the maximum extent feasible and be so located as to provide for maximum usability by residents, and to create a harmonious relationship of buildings and open space throughout the project area
3. Sidewalk areas shall be adequate for the movement of pedestrians through and around the site
4. Sidewalk areas shall be attractively landscaped and durably paved and shall be provided with adequate lighting
5. Trees and shrubs shall be planted along the curblines of streets and principal internal roadways at not more than 40 foot centers or in groupings, in a regular pattern and spaced alternately on either side of streets or roadways to further increase the aesthetic quality of the redevelopment activities

## **H. Underground Utility Placement**

All utility distribution lines and utility service connections from such lines to the project areas' individual uses shall be located underground. However, due to physical and functional constraints in and around Tax Block 13003, projects in Tax Block 13003 shall be encouraged, but not required, to adhere to the requirement that such utility distribution lines and utility connections from such lines be underground.

- I. Where property controlled by a single owner or designated developer is within two (2) redevelopment areas, the redevelopment area containing the greater land area of the two shall be used to calculate aggregate totals. These shall include FAR, open space, parking and coverage. However, any improvement occurring on the parcel with the lesser land area shall adhere to the regulations governing height and setbacks as specified in the redevelopment plan for the smaller site.

## **VIII. INTERIM USES**

Interim uses may be established, subject to site plan approval by the Planning Board and that such use will not have an adverse effect upon existing or contemplated development during the interim use period. Interim uses must be approved by the Planning Board. The Planning Board will determine the time period during which the interim use will be allowed. In no case will any additional commercial parking be permitted as an interim use. Subject to Article IX, B., of this plan.

## **IX. GENERAL PROVISIONS**

- A. The regulations and controls in this section will be implemented where applicable by appropriate covenants, or other provisions, or agreements for land disposition and conveyance executed pursuant thereto
- B. A designated developer shall begin and complete the development of the land and the construction of improvements agreed upon in the redevelopment agreement between the Jersey City Redevelopment Agency and designated developer.
- C. No covenant, lease, conveyance or other instrument shall be affected or executed by the Jersey City Redevelopment Agency or by a redeveloper or any of his successors or assignees, whereby land within the project area is restricted by the Jersey City Redevelopment Agency or the redeveloper upon the basis of race, creed, color or national origin in the sale, lease, use or occupancy thereof. Appropriate covenants, running with the land forever, will prohibit such restrictions and shall be included in the disposition instruments.

- D. No building shall be constructed over an easement in the project area without prior written approval of the Jersey City Division of Engineering
- E. The provisions of this plan specifying the redevelopment of the project area and the requirements and restrictions with respect thereto shall be in effect for a period of forty (40) years from the date of approval of this plan by the City Council
- F. Prior to commencement of construction, a designated developer shall submit its architectural drawings, specifications, and site plans for the construction and/or rehabilitation of improvements to the project area to the JCRA and the Planning Board for review and approval, so that compliance of such drawings, specifications, and plans to the redevelopment objectives can be determined
- G. Site plan review shall be conducted by the Planning Board pursuant to NJSA 40:55D-1 et seq. Site plan review shall consist of preliminary site plan application and final site plan application. Applications may be submitted for the entire project or in any number of phases. ~~Preliminary site plan approval for any phase shall entitle an applicant to building permits.~~

~~Final site plan approval for any phase shall not be granted unless or until that phase is substantially completed, or performance guarantees for site improvements for that phase have been furnished by the redeveloper in accordance with NJSA 40:55D-53. No Certificate of Occupancy of any type shall be issued for any construction until the Planning Board has given final site plan approval for the phase in which such construction is located.~~

As part of any site plan approval, the Planning Board may require a developer to furnish performance guarantees pursuant to NJSA 40:55D-53. Such performance guarantees shall be in favor of the City in a form approved by either the Corporation Counsel or the Planning Board attorney. The amount of any such performance guarantees shall be determined by the City Engineer and shall be sufficient to assure completion of site improvements within one (1) year of final site plan approval.

- H. Any subdivision of lots and parcels of land within the Redevelopment Area shall be in accordance with the requirements of this Plan and the Land Subdivision Development Ordinance of Jersey City
- I. The Planning Board may grant deviations from the regulations contained within this Plan, where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, pre-existing structures or physical features uniquely affecting a specific piece of property, the strict application of any area, yard, bulk or design objective or regulation adopted pursuant to this Plan, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property. The Planning Board may also grant a deviation from the regulations contained within this Plan related to a specific piece of property where the purposes of this Plan would be advanced by such deviation from the strict application of the requirements of this Plan; and the benefits of granting the deviation would outweigh any

detriments. The Planning Board may grant exceptions or waivers from design standards, from the requirements for site plan or subdivision approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and/or subdivision approval within this Plan, if the literal enforcement of one or more provisions of the plan is impracticable or would exact undue hardship because of peculiar conditions pertaining to the site. No deviations may be granted under the terms of this section unless such deviations can be granted without resulting in substantial detriment to the public good and will not substantially impair the intent and purpose of this Plan. No deviations may be granted which will result in permitting: (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a non-conforming use, (3) an increase in height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district, (4) an increase in the permitted floor area ratio, (5) an increase in the permitted density.

An application requesting a deviation from the requirements of this Plan shall provide public notice of such application in accordance with the public notice requirements set forth in NJSA 40:55D-12.a. & b.

#### **X. TRAFFIC CIRCULATION AND TRANSIT SYSTEM OBJECTIVES**

- A. To the Maximum extent feasible, sight-lines along Washington Street, specifically the view of the Statue of Liberty, shall be preserved and protected
- B. Christopher Columbus Drive shall serve the project area as the major southern access point
- C. Exchange Place Station and the Grove Street Station shall serve the project area as the major mass transit facilities.
- D. Pedestrian movement shall be encouraged on city streets by providing attractively landscaped malls and plazas throughout the project area. Retail and Restaurant uses within commercial developments shall provide frontage on and direct access from city streets and plazas.
- E. The availability of transit on the surface of the Hudson River shall be encouraged in, or proximate to, the project area
- F. Air transportation in the form of helicopter service may be provided for as a conditional use
- G. The use of mass (public) transit by employees, residents, and visitors of the Redevelopment Area shall be encouraged

#### **SPECIFIC LAND USE PROVISIONS**

Construction of the Hudson River Waterfront Walkway is required in conjunction with development within Harborside West District and development within the Harborside

District. Refer to these districts for specific requirements.

**A. River View District**

1. Principal permitted uses

- a. office buildings
- b. multifamily residential structures
- c. hotels
- d. mass transit station
- e. mixed use of any of the above

2. Accessory uses

All accessory uses located on the ground floor shall maintain at least one main entrance providing direct ingress and egress to the street.

- a. parking garages when constructed as an integral part of any of the principal permitted uses in this district. Any base parking structure located on Block 13003 shall wrap the first two stories of the parking garage with alternate uses and facades to screen the parking garage use, including, but not limited to mechanical and utility rooms, if necessary. It is encouraged, but not required, that the first two (2) stories parking base along Steuben Street be wrapped with residential development, and that public retail uses are incorporated to wrap the parking base along Christopher Columbus Drive and Luis Munoz Marin Blvd. frontage, and either retail or residential uses along the Warren Street frontage. The purpose of this requirement is to provide, to the fullest extent possible, that no parking garage space occupies the area adjacent to street frontage within the first two floors of any structure located within this Block.
- b. surface parking areas
- c. retail sales of goods and services
- d. restaurants
- e. health clubs
- f. night clubs
- g. theaters
- h. plazas and fountains

3. Maximum height

In no case shall any structure exceed five hundred (500) feet.

4. Area, yards and bulk - minimum lot size, one (1) acre

- a. except as provided for in Section VI. D. 3. of this plan and setback treatments at building egress points, all buildings, regardless of use, shall be located up to the property line on Christopher Columbus Drive, and in addition, may be located up to one (1) or more of the remaining property lines. Structures not located on Christopher

Columbus Drive may be located up to any two (2) property lines on side streets provided those structures contain retail or residential uses on the ground floor.

- b. the floor area ratio (FAR) shall not exceed ten (10); parking and mechanical levels and vertical circulation (stairs, elevators, escalators) areas, shall not be included in this calculation
5. Specific design guidelines for the River View District parking structures built along Christopher Columbus Drive shall adhere to the provisions stated in Section VI. D. 3. of this Plan

**B. City view District**

1. Principal permitted uses

- a. office buildings
- b. multifamily residential structures
- c. hotels
- d. mass transit station
- e. notwithstanding any other provisions of this plan to the contrary, Block 75 shall be permitted to have general commercial parking within a structured parking garage.
- f. mixed use of any of the above

2. Accessory uses

- a. retail sales of goods and services limited to the ground floor of all structures
- b. restaurants
- c. theaters
- d. health clubs
- e. night clubs
- f. surface parking areas
- g. parking structures
- h. plazas and fountains

3. Maximum height

fifty (50) stories, however any story where a minimum of eighty percent (80%) of that level's gross floor area is used for parking and/or mechanicals shall not be considered in the maximum number of stories permitted. In no case shall any structure exceed 800 feet.

4. Area, yards and bulk - minimum lot size, one (1) acre

- a. buildings may be located up to any two property lines
- b. the floor area ratio (FAR) shall not exceed twelve (12); parking and mechanical levels shall not be included in this calculation

5. Specific design guidelines for the City View District
  - a. in order to facilitate the development of a street wall, locating of buildings up to two (2) property line shall be encouraged
  - b. any structure located on the First Street (north) frontage of Tax Block 13 shall align with or be set back further than the northern edge of the existing structure located on Tax Block 76

**C. Harborside District**

1. Principal permitted uses
  - a. office buildings
  - b. residential structures
  - c. hotels
  - d. transit station
  - e. commuter ferry dock
  - f. mixed use of any of the above

\* Existing structures shall not be deemed a nonconforming use

2. Accessory uses
  - a. parking garages when constructed as an integral part of and ancillary to any of the principal uses of this district
  - b. surface parking areas
  - c. retail sales of goods
  - d. restaurants
  - e. health clubs
  - f. night clubs
  - g. theaters
  - h. plazas and fountains

3. Conditional uses
  - a. one (1) helicopter landing pad, a maximum of ten thousand (10,000) square feet in area, provided such pad is located at least two hundred (200) feet east of the March 4, 1980 bulkhead line. Conditional use approval shall be in accordance with the existing Zoning ordinance of Jersey City. No fueling allowed.
  - b. marina, limited to the area located between Piers D and F and within the pier-head line, for the berthing of boats, sale of equipment and supplies, and incidental repair necessary and incidental to marine activities. No land-based boat storage or repair is allowed. Any fuel depot will be subject to review and approval by the Jersey City Fire Prevention Bureau, United States Coast Guard and the New Jersey Department of Environmental

Protection, in addition to conditional use approval by the Planning Board.

4. Maximum height

NEW CONSTRUCTION:

No building shall exceed eight (8) stories or one hundred twenty (120) feet. Nine and one half stories (9 ½ ), may be permitted provided the overall height does not exceed and average height of 90 feet and a maximum of 120 feet at any point.

RENOVATION OF EXISTING BUILDINGS:

An addition of four (4) stories or fifty five (55) feet may be permitted, not covering more than fifty percent (50%) of the existing building's footprint, subject to conformance with the zoning guidelines and architecture consistent with that of the existing structures.

5. Area, yards and bulk - minimum lot size, one (1) acre

- a. Existing structures to be rehabilitated shall be exempt from area and yard requirements, but subject to a floor area ratio (FAR) of 7.5. Any new construction development in addition to or as a replacement for any existing structures shall also be exempted as above and shall also be subject to an FAR of 7.5. In calculating FAR, underwater property shall be considered at fifty percent (50%) of its actual acreage.
- b. Existing buildings may be allowed one hundred percent (100%) lot coverage. New construction occurring on existing piers shall not exceed coverage of seventy five percent (75%) of the pier deck, the balance to be preserved as improved open space. Existing pier structures may be maintained at their current coverage.

Where a heliport has been approved by the Planning Board, as a conditional use, the building coverage allowance shall be reduced in direct proportion to the square footage of the heliport as part of the conditional use approval. Where the building coverage is such that the minimum landscaping requirements cannot be met on the subject lot, the required landscaping may be provided on an adjacent lot.

- c. Any additional stories added to structures which exist at the time of adoption of this plan are required to provide for the protection of upland sightlines by the maintenance of two (2) one hundred (100) foot wide view corridors

6. Specific design guidelines for the Harborside District

All buildings located on piers shall be set back a minimum of ten (10) feet from the edge of the pier, in order to provide pedestrian and/or emergency vehicle access.

1. Waterfront Walkway Construction

The Hudson River Waterfront walkway esplanade shall at a minimum comply with the NJ

State Waterfront Development Regulation. It shall be exterior to the building and shall be a minimum of 32 feet wide on two levels, 16 feet on the upper level and 16 feet on the lower level. The upper level shall be lined with pavers and the lower level shall be lined with a more durable, weather resistant surface such as fiberglass or similar composite materials used along the Jersey Shore boardwalks. Plantings along the walkway shall be tolerant of the brackish waterfront environment. Operable doors along the interior Harborside Terminal Building Arcade shall provide easy access to the walkway from interior spaces. The walkway shall connect to the exterior walkway space on each pier and the C. Columbus Drive to the South and Harborside Place, (North Pier Access Road), to the North. Perpendicular access shall also be provided during the day through the Atrium and exterior arcade doors.

There is expected to be a 2 foot to five foot differential in elevation between the upper and lower levels. They shall be connected by ramps and stairs and planters where the elevations permit. A visible screening barrier shall be incorporated into the design to shield the gap between the upper and lower level.

The 32 foot wide exterior walkway and exterior perpendicular access to it shall be opened for 24 hours.

It is a requirement that the waterfront walkway improvements as referenced above shall be built concurrent with the issuance of the building permit for the full or partial development of any one of the following project segments:

1. the North Pier
2. the South Pier
3. Block 10 Lot 1 (Plaza 4)
4. Block 10 Lot 16 (Plaza 7)

Plaza 4 and 7 are to accommodate the two larger buildings and therefore, like the piers, will trigger construction of the walkway when built.

If either one of the twin smaller buildings are built on Block 10 Lots 2 or 16 (Plazas 5 or 6), prior to the above listed larger segments, the waterfront walkway will then be required prior to or commensurate with the issuance of a building permit for any further development of the Harborside Project, including the other twin smaller building or any other full or partial plaza segment.

Construction must be completed and the walkway opened for public use prior to the Issuance of a Certificate of Occupancy for any portion of the project triggering the construction of the walkway.

#### **D. Harborside West District**

1. Principal permitted uses
  - a. office buildings

- b. multifamily residential structures
  - c. hotels
  - d. mass transit station
  - e. mixed use of any of the above
2. Accessory uses
- a. retail sales of goods and services limited to the ground floor of all structures
  - b. restaurants
  - c. theaters
  - d. health clubs
  - e. night clubs
  - f. surface parking areas
  - g. parking structures
  - h. plazas and fountains

3. Maximum height

Fifty (50) stories, however any story where a minimum of eighty percent (80%) of that level's gross floor area is used for parking and/or mechanicals shall not be considered in the maximum number of stories permitted. In no case shall any structure exceed 800 feet.

4. Area, yards and bulk - minimum lot size, one (1) acre

- a. Buildings may be located up to any (2) two property lines
- b. The floor area ratio (FAR) shall not exceed fifteen (15); parking and mechanical levels shall not be included in this calculation

5. Waterfront Walkway Construction

The Hudson River Waterfront walkway esplanade shall at a minimum comply with the NJ State Waterfront Development Regulation. It shall be exterior to the building and shall be a minimum of 32 feet wide on two levels, 16 feet on the upper level and 16 feet on the lower level. The upper level shall be lined with pavers and the lower level shall be lined with a more durable, weather resistant surface such as fiberglass or similar composite materials used along the Jersey Shore boardwalks. Plantings along the walkway shall be tolerant of the brackish waterfront environment. Operable doors along the interior Harborside Terminal Building Arcade shall provide easy access to the walkway from interior spaces. The walkway shall connect to the exterior walkway space on each pier and the C. Columbus Drive to the South and Harborside Place, (North Pier Access Road), to the North. Perpendicular access shall also be provided during the day through the Atrium and exterior arcade doors.

There is expected to be a 2 foot to five foot differential in elevation between the upper and lower levels. They shall be connected by ramps and stairs and planters where the elevations permit. A visible screening barrier shall incorporated into the design to shield the gap between the upper and lower level.

The 32 foot wide exterior walkway and exterior perpendicular access to it shall be opened for 24 hours.

It is a requirement that the waterfront walkway improvements as referenced above shall be built concurrent with the issuance of the building permit for the full or partial development of any one of the following project segments:

5. the North Pier
6. the South Pier
7. Block 10 Lot 1 (Plaza 4)
8. Block 10 Lot 16 (Plaza 7)

Plaza 4 and 7 are to accommodate the two larger buildings and therefore, like the piers, will trigger construction of the walkway when built.

If either one of the twin smaller buildings are built on Block 10 Lots 2 or 16 (Plazas 5 or 6), prior to the above listed larger segments, the waterfront walkway will then be required prior to or commensurate with the issuance of a building permit for any further development of the Harborside Project, including the other twin smaller building or any other full or partial plaza segment.

Construction must be completed and the walkway opened for public use prior to the Issuance of a Certificate of Occupancy for any portion of the project triggering the construction of the walkway.

#### **DI. OTHER PROVISIONS NECESSARY TO MEET STATE AND LOCAL REQUIREMENTS**

- A. The "Redevelopment Agencies Law, "NJSA 40:55C-1, et seq, specifically 40:55C-32, requires that a redevelopment plan shall:
  1. "Conform to the general plan for municipality as a whole; and
  2. shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, conservation or rehabilitation as may be proposed to be carried out in the area of the project, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land use, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements".
- B. In accordance with the State requirements, the following statements are made:
  1. The proposals of this Plan conform with the general plan for the municipality:

2. This Plan provides an outline for the development or redevelopment of the Exchange Place North Redevelopment Area and is sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements as proposed, planning changes, land uses, maximum densities, building requirements, and its relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, community facilities, and other public improvements -
3. Provisions for the temporary and permanent relocation of persons living in the Redevelopment Area are not applicable as the area does not contain any residents nor residential structures
4. The City of Jersey City, through the services of the Jersey City Redevelopment Agent relocation staff, will provide displaced commercial entities with the relocation assistance necessitated by State Law. This office will be staffed by qualified personnel who will actively assist displaced businesses and individuals in finding adequate accommodations. All businesses and individuals being displaced will be interviewed to determine their relocation requirements.

## **DII. PROCEDURE FOR AMENDING THE PLAN**

This Redevelopment Plan may be amended from time to time upon compliance with the requirements of law. A fee of \$1,000 plus all costs of copying and transcripts shall be payable to the City of Jersey City for any request to amend this Plan. If there is a designated developer, as provided for under NJSA 40: 55C-1 et seq. said developer shall pay these costs. If there is no designated developer, the developer or property owner requesting the amendments - appropriate agency shall be responsible for any and all such costs.

City Clerk File No. Ord. 12-143

Agenda No. 3.D 1st Reading

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



# ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-143

TITLE:

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AN AMENDMENT TO THE DEFINITION OF WORK/LIVE UNIT IN THE  
MORGAN/GROVE/MARIN (MGM) REDEVELOPMENT PLAN**

**WHEREAS**, the Local Redevelopment and Housing Law, NJSA 40A:12A-1 et seq. permits municipalities to adopt and amend regulations dealing with areas declared to be “in need of redevelopment” and “in need of rehabilitation”; and

**WHEREAS**, the MGM Plan allows “Work/Live Units” however, such units are restricted either to an “artist,” or “persons engaged in a profession or other occupation in a business office setting;” and

**WHEREAS**, the occupancy of work/live units by those engaged in craft occupations that are neither “fine arts” nor “professional” is both reasonable and desirable; and

**WHEREAS**, at its meeting of October 16, 2012, the Jersey City Planning Board discussed the proposed amendments and recommended their adoption to the Municipal Council; and

**WHEREAS**, the Redevelopment Plan reflecting the proposed amendments is attached hereto and made a part hereof, and is available for public inspection at the Office of the City Clerk in 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 Amendment to the Marin/Grove/Morgan (MGM ) Redevelopment Plan attached hereto be, and hereby is, adopted.

**BE IT FURTHER ORDAINED THAT:**

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

APPROVED AS TO LEGAL FORM

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

APPROVED: \_\_\_\_\_

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

Certification Required

Not Required

**ORDINANCE FACT SHEET**

1. **Full Title of Ordinance/Resolution/Cooperation Agreement:**

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AN AMENDMENT TO THE DEFINITION OF WORK/LIVE UNIT IN  
THE MORGAN/GROVE/MARIN (MGM) REDEVELOPMENT PLAN**

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

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

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

This ordinance amends the definition of "Work/Live Unit" within the MGM Redevelopment Plan to eliminate the restriction to professional occupations in business office settings

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

The current definition is too restrictive and obsolete, prohibiting occupancy of work/live units by those engaged in craft occupations that are neither "fine arts" nor "professional."

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

Greater flexibility in marketing work/live units resulting in greater diversity in occupancy

6. **Cost of Proposed Program, Project, etc.:**

None

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

Upon approval of the redevelopment plan amendment.

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

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

Robert D. Cotter, Director, City Planning 547-5050

10. **Additional Comments:** None

I Certify that all the Facts Presented Herein are Accurate.

  
Division Director

OCT 15, 2012  
Date

  
Deputy Department Director Signature

OCTOBER 15, 2012  
Date

## **SUMMARY STATEMENT**

### **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AN AMENDMENT TO THE DEFINITION OF WORK/LIVE UNIT IN THE MORGAN/GROVE/MARIN (MGM) REDEVELOPMENT PLAN**

This ordinance amends the definition of "Work/Live Unit" within the MGM Redevelopment Plan to eliminate the restriction to professional occupations in business office settings.

# **Morgan/Grove/Marin**

## **Redevelopment Plan**

**City of Jersey City**

**DIVISION OF CITY PLANNING**

**Adopted by Ordinance, February 1, 2006**  
**Block & Lot Updates – August 6, 2012**  
**Amended September 13, 2012 – Ord. 12-112**  
*Proposed October 5, 2012*

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# MORGAN/GROVE/MARIN

## REDEVELOPMENT PLAN

### I. INTRODUCTION

The Morgan/Grove/Marin Redevelopment Area (hereinafter the MGM Area, the Redevelopment Area or the Area) was determined to be “an area in need of redevelopment”, pursuant to the New Jersey Local Housing and Redevelopment Law (N.J.S.A. 40A:12A-1 et seq.) as part of the “Powerhouse Arts District Study Area”, by resolution of the Jersey City Municipal Council on July 14, 2004 following recommendation by the Jersey City Planning Board.

However, the MGM Area was not included in the Powerhouse Arts District Redevelopment Plan as adopted by the Jersey City Municipal Council. It was felt that although the MGM Area was indeed an area in need of redevelopment, it was sufficiently different in character to warrant its own redevelopment plan. The Powerhouse Arts District Area is dominated by large historic warehouse and industrial structures, whereas the MGM Area is comprised of a mixture of smaller residential uses and commercial uses, some on smaller lots and others on larger sites comprised of an assemblage of smaller lots, and vacant land.

The MGM Area is adjacent to the Powerhouse Arts District Redevelopment Area on the east; but separated by Marin Boulevard, a major north south street providing access to the Holland Tunnel and the City of Hoboken to the north. The MGM area also borders the Grove Street II Redevelopment Area just across Morgan Street to the South. The Grove Street II Redevelopment Area permits high rise (up to 330 feet in height) mixed-use development. To the west, the MGM Area borders the Grove Street commercial district and the Harsimus Cove historic district. This is an area of primarily four story stone and masonry construction dating from the 19<sup>th</sup> century. To the north, several redevelopment plans extend along Marin Boulevard and Manila Avenue (formerly Grove Street), including Grove Street N.D.P., Henderson Street South and the Luis Munoz Marin Redevelopment Areas. These areas are now developed with low, medium and high-rise residential structures.

The MGM Area is surrounded by redevelopment plans on three sides and the Grove Street Neighborhood Commercial District and Harsimus Cove Historic District on the fourth side. It is located between large scale, high intensity redevelopment areas to the east and south and more traditional historic neighborhoods and redeveloped neighborhoods to the west and north. This area has lagged far behind the redevelopment and rehabilitation that has occurred in the surrounding area. Clearly, it is now time for the City to take a more pro-active role in the redevelopment of this critical area. The purpose of this Plan is to provide a comprehensive redevelopment plan that will allow and encourage the redevelopment of this Area, which can serve as a transitional area between the higher intensity mixed-use areas to the south and east, and the more traditional residential neighborhoods to the north and west.

## II. BOUNDARIES

The MGM Area consists of Tax Lots found on Tax Blocks 11507 and 11508 in the Downtown section of Jersey City. The following are the Block and Lot numbers which are to be included in the Area.

Block	Lot	Address	Block	Lot	Address
11507	12	349 Luis M Marin Blvd.	11508	15	198-200 Bay Street
11507	25	196 Morgan St.	11508	10	186-188 Bay St.
11507	26	198 Morgan St.	11508	9	184 Bay St.
11507	23	186-188 Morgan St.	11508	7	351-61 Luis M Marin Blvd.
11507	27	338 Grove St.	11508	6	363-65 Luis M Marin Blvd.
11507	13	347 Luis M Marin Blvd.	11508	20	366 Grove St.
11507	2	199 Bay Street	11508	1	368 Grove St.
11507	3	197 Bay St.	11508	2	187-197 First St.
11507	4	195 Bay St.	11508	11	190 Bay St.
11507	5	193 Bay St.	11508	12	192 Bay St.
11507	6	191 Bay St.	11508	13	194 Bay St.
11507	14	345 Luis M Marin Blvd.	11508	14	196 Bay St.
11507	15	343 Luis M Marin Blvd.	11508	16	202 Bay St
11507	11	181 Bay St.	11508	3	183-185 First St.
11507	10	183 Bay St.	11508	4	181 First St.
11507	9	185 Bay St.	11508	8	180-182 Bay St.
11507	8	187 Bay Street			
11507	7	189 Bay Street			
11507	24	190-194 Morgan St.			
11507	22	184 Morgan St.			
11507	21	182 Morgan St.			
11507	20	331 Luis M Marin Blvd.			
11507	19	333 Luis M Marin Blvd.			
11507	18	335-37 Luis M Marin Blvd.			
11507	17	339 Luis M Marin Blvd.			
11507	16	341 Luis M Marin Blvd.			

The boundary of the Redevelopment Area is also depicted on Map 1 – Boundary Map.

### **III. REDEVELOPMENT OBJECTIVES AND REQUIREMENTS OF ANY DEVELOPMENT AND CONSTRUCTION WITHIN THE PLAN AREA**

- A. The planning and development of the Redevelopment Area as a primarily residential mixed-use area with ground floor commercial uses along Grove Street and Marin Boulevard, and residential uses above and elsewhere in the Redevelopment Area.
- B. Encourage the assemblage of lots within the Area in order to create suitable sites for more comprehensive development, while also allowing development on the many pre-existing smaller lots in order to provide for transitional development between the more traditional neighborhoods in the surrounding area and the more intensive mixed-use areas to the south and east.
- C. To promote the principles of “Smart Growth” and “Transit Village” development. i.e. sustainable economic and social development, including a variety of housing choices, providing pedestrian friendly streets and public rights-of-way, minimize automobile use by maximizing the appeal of mass transit, encourage reduced parking and shared use parking solutions, and creating a livable community with convenient access to commercial facilities.
- D. Minimize on-site parking and maximize the use of mass transit in order to take advantage of the new PATH station located one block south at the corner of Marin Boulevard and Columbus Drive and the new Hudson-Bergen Light Rail station located just to the east.
- E. To integrate new development within the Area into the surrounding community by encouraging new development, that can act as a transitional element between the surrounding area's adjacent high-rise office and mixed-use developments, and the adjacent lower-rise historic commercial and residential areas.
- F. Maximize the participation by the private sector by allowing for development on a variety of different lot sizes so as to minimize the need for acquisition by the public sector through eminent domain.
- G. The improvement of the pedestrian environment and traffic circulation for the contemplated new development by prohibiting all vehicular access to the site from Marin Boulevard and Grove Street, limiting ingress and egress points to major development on other streets, and the provision of new side walks, street trees and other pedestrian amenities within the existing street rights-of-way.

### **IV. PROPOSED REDEVELOPMENT ACTIONS**

It is proposed to substantially improve and upgrade the Redevelopment Area through a combination of redevelopment actions that will provide a uniform and consistent attack on blight within the Area by systematically removing blighting influences in an orderly manner and allowing for new construction. These will include but not be limited to:

- A. Acquisition of vacant land, and/or acquisition and demolition of structures, determined to be impediments to sound and comprehensive redevelopment.
- B. The consolidation and re-subdivision of land within the Redevelopment Area into suitable parcels for development for the new residential and commercial land uses where necessary.
- C. Provision for a full range of public and/or private infrastructure necessary to service and support new development in the Area and adjacent areas.
- D. Construction of new structures and complementary facilities that are consistent with the land use patterns in the surrounding area.

**V. GENERAL ADMINISTRATIVE REQUIREMENTS**

The following provisions shall apply to all property located within the MGM Redevelopment Area.

- A. Prior to the commencement of: (a) any new construction, (b) reconstruction, (c) rehabilitation (d) any change to the interior floor plan of any structure, (e) any change in the use of any structure or parcel, or (f) any change in the intensity of use of any structure or parcel; a site plan for such shall be submitted by the developer or property owner to the Planning Board for review and site plan approval. No temporary or permanent Building Permit shall be issued for any work associated with a through f above, without prior site plan review and approval of such work by the Planning Board. Nothing in this section is intended to require site plan review and approval for minor modifications to the interior floor plan, such as the relocation or modification of partition walls, which are commonly done to accommodate new tenancies or during lease renewals.
- B. The provisions of this Plan specifying the redevelopment of the Area and the requirements and restrictions with respect thereto shall be in effect for a period of twenty (20) years from the original date of approval of this Plan by the Jersey City Municipal Council. Subsequent amendments hereto shall not alter or extend this period of duration, unless specifically extended by such amendments.
- C. Prior to commencement of construction, architectural drawings and site plans with detailed specifications for the construction and/or rehabilitation of improvements to the area shall be submitted by the developer to the Planning Board of the City of Jersey City for review and approval so that compliance of such plans with the redevelopment requirements and objectives can be determined. Site plan review shall be conducted by the Planning Board pursuant to NJSA 40:55D-1 et. seq. Applications may be submitted for the entire project or in any number of phases. Final Site Plan approval for any phase shall entitle an applicant to building permits.

As part of any Final Site Plan approval, the Planning Board may require a developer to furnish performance guarantees pursuant to NJSA 40:55D-53 et seq. Such performance

guarantees shall be in favor of the City in a form approved by the Jersey City Corporation Counsel. The amount of any such performance guarantees shall be determined by the City Engineer and shall be sufficient to assure completion of on and off site improvements within one (1) year of final site plan approval.

- D. Any subdivision of lots and parcels of land within the Redevelopment Area shall be in accordance with this Plan's requirements and the Jersey City Land Subdivision Ordinance.
- E. No development or redevelopment of any parcel in the Redevelopment Area that will result in an increase in wastewater from that parcel shall be permitted unless and until the planned project wastewater piping and systems for the removal of effluent and storm water are approved by the City of Jersey City Division of Engineering and the Municipal Utilities Authority; and the municipal wastewater piping and systems for the removal of effluent and storm water are certified by the City of Jersey City Division of Engineering and the Municipal Utilities Authority as being of sufficient capacity and good condition to accommodate uses that will occupy said parcel. Such approval may be contingent upon requisite improvements to the drainage system in the street, as determined by the Division of Engineering.
- F. Interim uses may be permitted, subject to site plan review and approval by the Planning Board. The Planning Board shall only permit uses that it finds will not have an adverse effect upon surrounding existing or contemplated development during the interim use period. Interim uses must be approved by the Planning Board. The Board shall establish an interim use period of up to three (3) years in duration. The Planning Board may grant additional one (1) year renewals of interim uses upon application, review, and approval. Commuter or commercial surface parking lots and commuter or commercial parking garages are specifically prohibited and shall not be permitted as interim uses.
- G. The Planning Board may grant deviations from the regulations contained within this Plan, where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, pre-existing structures or physical features uniquely affecting a specific piece of property, the strict application of any area, yard, bulk or design objective or regulation adopted pursuant to this Plan, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property. The Planning Board may also grant a deviation from the regulations contained within this Plan related to a specific piece of property where the purposes of this Plan would be advanced by such deviation from the strict application of the requirements of this Plan; and the benefits of granting the deviation would outweigh any detriments. The Planning Board may grant exceptions or waivers from design standards, from the requirements for site plan or subdivision approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and/or subdivision approval within this Plan, if the literal enforcement of one or more provisions of the plan is impracticable or would exact undue hardship because of peculiar conditions pertaining to the site. No deviations may be granted under the terms of this section unless such deviations can be granted without resulting in substantial detriment to the public good and will not substantially impair the

intent and purpose of this Plan. No deviations may be granted which will result in permitting a use that is not a permitted use within this Plan. An application requesting a deviation from the requirements of this Plan shall provide public notice of such application in accordance with the public notice requirements set forth in NJSA 40:55D-12.a. & b.

- H. The regulations and controls in this section may be implemented where applicable by appropriate covenants, or other provisions, or agreements for land disposition and conveyance executed pursuant thereto.
- I. No covenant, lease, conveyance or other instrument shall be effected or executed by the Jersey City Redevelopment Agency or by a redeveloper or any successors or assignees, whereby land within the Redevelopment Area is restricted by the Jersey City Redevelopment Agency or the redeveloper upon the basis of race, creed, color or national origin in the sale, lease, use or occupancy thereof. Appropriate covenants, running with the land forever, will prohibit such restrictions and shall be included in the disposition instruments.
- J. No building shall be constructed over an easement in the Redevelopment Area without site plan review and approval of the Jersey City Planning Board and prior written approval of the Redevelopment Agency and the Division of Engineering.
- K. If any word, phrase, clause, section or provision of this Plan shall be found by a court of competent jurisdiction to be invalid, illegal or unconstitutional, such word, phrase, clause, section or provision shall be deemed severable and the remainder of the ordinance shall remain in full force and effect.

## **VI. GENERAL DESIGN REQUIREMENTS AND RESTRICTIONS**

The following standards and requirements shall apply to all applications, including but not limited to: developments, re-developments, rehabilitation, and or re-use applications within the Redevelopment Plan area:

- A. All utility distribution lines; utility service connections from such lines to the Redevelopment Area's individual uses; and utility appliances, regulators and metering devices shall be located underground or within the building. No utility boxes or structure shall be permitted in sidewalk areas or exterior to the building. Remote readers are required for all utilities, in lieu of external location of the actual metering devices. Developers are required to arrange for connections to public and private utilities.
- B. Chain link fencing shall be prohibited within the Redevelopment Area, except during construction. Chain link fencing for construction shall be dismantled and removed prior to the issuance of a Certificate of Occupancy.
- C. No Billboard shall be permitted on any property contained within the Redevelopment Area.

- D. No signage shall be permitted within the Redevelopment Area, which includes flashing, blinking or otherwise animated lights and/or parts, spinners, pennants, reflective materials, which sparkle or twinkle and/or similar materials; except for seasonal holiday decorations.
- E. No advertising shall be permitted on parking meters, light poles, or on benches or other street furniture within the public right-of-way.
- F. Upon demolition of any existing structures, the site shall be graded, planted, sodded, and/or developed, as applicable, in accordance with this Plan.
- G. All trash dumpsters and/or compactors shall be located within the buildings. All outdoor storage shall be prohibited.
- H. All buildings within the Redevelopment Area must display the street address of the building such that it is clearly visible from the adjoining street right of way.
- I. In order to facilitate the overall redevelopment of the MGM Area, the surrounding area, and the City of Jersey City in general, all advertising, signage and other promotion of the resulting project, whether undertaken by the City, the Redevelopment Agency, or private developers, shall contain references to the proposed project's location. They all shall clearly state it to be within the City of Jersey City so as to promote the positive external effects for not only the project, but the Redevelopment Area and the City as well.

**VII. URBAN DESIGN REQUIREMENTS**

- A. Building Design Requirements
  - 1. All structures within the Redevelopment Area shall be situated with proper consideration of their relationship to other buildings, both existing and proposed, in terms of light, air and usable open space, access to public rights of way and off-street parking, height and bulk. Buildings shall be designed to be attractive from all vantage points, such that similar façade materials and detailing is used on all facades.
  - 2. Any existing building to be retained and rehabilitated shall comply with the Department of the Interior Rehabilitations Standards for guidance in selecting materials and methods of rehabilitation.
  - 3. Buildings shall be oriented toward the street so as to contribute to the overall liveliness of the pedestrian environment. Specifically, at least seventy (70) percent of the ground floor frontage of any project along Marin Boulevard and/or Grove Street shall be dedicated to commercial uses and/or pedestrian access areas such as retail sales of good and services, restaurants, banks, offices, building entrances and lobbies; which shall have direct access from the sidewalk area. Main-building entries shall be prominent and easily identifiable,

and shall not occur simply as voids within or between buildings. Townhouse style units and/or buildings shall provide a raised stoop with at least three (3) risers at the entry.

4. Buildings shall have a clear base, middle and top. Architectural devices, such as providing stringcourses, cornices and sub-cornices, and/or horizontally differentiating surface treatments, can be used to achieve the necessary transitions.
5. The windows and glazing of a building are a major element of style that gives character to the building. Windows and glazing on ground floor commercial uses should be broad and expansive providing views into the store and display areas. At least seventy-five (75%) percent of the storefront façade shall be glass. Corner buildings shall have windows on both street frontages. If security gates are used on any part of the building or window, they shall be installed on the interior side of the window, hidden from view when closed, and be of the open grate style.
6. Buildings along Grove Street shall be designed to be compatible with the 19<sup>th</sup> century character of the existing buildings along Grove Street in terms of materials, window placement and other architectural elements. Storefronts are required in all such buildings and shall also reflect the design of the existing storefronts along Grove Street in terms of display windows, materials, sub-cornice line and other architectural features.
7. Windows in residential portions of a building shall be arranged such that the vertical dimension, or height, is greater than the horizontal dimension, or width. However, bay windows, bow windows or other window features may also be incorporated into the façade to provide architectural interest and character, provided that the overall verticality of the structure is not adversely affected. Scattered window facades shall not be allowed. Each façade shall present a unified, rational composition. Corner buildings shall have windows on both street frontages. The window sill of any residential window sill facing a public street shall not be less than five (5) feet above the elevation of the adjoining sidewalk.
8. Balconies and terraces may extend from the building when facing into interior courts. However, all balconies facing onto streets shall be very shallow and recessed to prevent their use as storage spaces.
9. EIFS (Exterior Insulating Finishing Systems, artificial stone and artificial brick veneer ("Permastone" & "Brickface"), concrete or split-face block, and/or plastic type artificial siding materials may not be used as façade cladding within this Redevelopment Area.
10. All mechanical equipment, generators, HVAC equipment and similar equipment shall be acoustically buffered such that any noise generated by the equipment shall be within the applicable standards as defined by the State of New Jersey.
11. All electronic communication equipment shall be totally screened from view. This shall be achieved through creative disguises within the basic architecture of the building, such that it does not negatively impact the appearance of the building. Said screening shall be constructed in a manner that is consistent with the architecture of the building, and shall

utilize the same materials used in the construction of the building, such that the screening appears to be an integral part of the building. The screening shall not impair the functioning of the equipment. Said equipment shall be located so as to minimize or eliminate the need for screening.

12. All mechanical equipment shall be totally screened from view, both from the street and existing or planned neighboring buildings. Said screening shall be constructed in a manner that is consistent with the architecture of the building, and shall utilize the same materials used in the construction of the building, such that the screening appears to be an integral part of the building. The screening shall not impair the functioning of the equipment. Interior locations to the principal building or underground locations must be utilized.
13. Ventilation equipment required for commercial uses shall be vented through the roof of the building. All such equipment ventilated through the roof and screened in compliance with paragraph 6 above. The necessary incorporation of ventilation grillwork within the storefront façade system shall be limited to no more than 15% of the possible glazing area. Such grillwork shall be architecturally incorporated within the storefront design so as to compliment and add to the overall aesthetic affect of the commercial façade. Exposed ventilation pipes and risers are prohibited.

B. Streetscape and Landscape Requirements

1. A streetscape plan is required for all projects and shall include proposed sidewalk and curbing materials and treatments, street trees, tree pit grates and/or treatments, and any proposed street furniture, lighting or other features to be provided. The streetscape plan shall be submitted to the Jersey City Planning Board for its review and approval as part of the project site plan application and implemented as part of the construction of the project.
2. Sidewalk areas must be provided along the street rights of way and shall be properly sized for the safe and convenient movement of pedestrians through and around the Redevelopment Area.
3. Sidewalk areas shall be attractively landscaped and durably paved in conformance with Municipal standards and shall be provided with adequate lighting. Decorative concrete paving materials shall be incorporated into the design and pedestrian scale lighting is required. At a minimum decorative elements shall be introduced at building entrances at street corners and along the curb line to accent and channel pedestrian flow.
4. All plant material used must be able to withstand the urban environment and shall be planted, balled and burlapped as established by the American Association of Nurserymen. A planting schedule shall be provided by the developer and approved by the Planning Board. All landscaping shall be guaranteed for a period of two (2) years. Any landscaping which is not resistant to the urban environment or that dies shall be replaced by the developer or property owner.

5. Street trees shall be planted along all curb lines of streets within the Redevelopment Area at a maximum of 35 feet on center. Each tree pit shall contain a decorative metal grate and/or decorative paving treatment.
6. Outdoor landscaped open space areas shall be provided for all new construction within the Redevelopment Area and shall occupy any required rear yard areas or be constructed on a deck over any parking structure. Additional open space areas may be provided after Planning Board review and approval. All areas not covered by a building or necessary paved areas shall be landscaped with trees, shrubs, groundcovers or other appropriate plant material.
7. Lighting within the Redevelopment Area shall sufficiently illuminate all areas to prevent "dark corners". All lighting sources must be shielded to prevent and eliminate any glare. The area of illumination shall have a uniform pattern of at least one-half (0.5) foot-candles.

C. Off-street Parking Design and Loading Requirements

1. All parking shall be located within the building. There shall be no separate parking structures. Access to parking may be provided from Bay Street, Morgan Street and/or First Street only. No access to parking shall be provided from Grove Street or Marin Boulevard. There shall be no exposed parking permitted, either surface parking or on the top of parking deck levels of a building. A landscaped plaza or recreation area is required at the top of all parking structures.
2. All parking structures are to be designed to disguise the parking use within. All parking and mechanical related areas shall be wrapped along the exterior by occupied active building uses, such as commercial storefronts and residential units. Two exceptions may be permitted by the Planning Board:
  - a.) One Utility room may occupy no more than fifteen (15%) percent or fifteen (15) linear feet (whichever is less of any one single façade, but shall not be located along Marin Boulevard or Grove Street.
  - b.) Where a site has frontage on at least three (3) streets, a small portion of the garage façade may adjoin the street right-of-way line on one facade in order to provide design flexibility and efficiency in the parking layout. This portion of the garage façade shall be limited to not more than seventy (70) feet in length along one street and the façade must be disguised or masked through architectural design treatments as further described below; also, any utility areas requested pursuant to item a.) above shall be located within this seventy (70) feet of frontage, and the 70 feet shall not be located along Marin Boulevard or Grove Street.
3. Where an occupied active building use is not utilized to mask the parking within the building, the façade of the parking structure shall be designed to disguise the parking use to the greatest degree possible. The exterior wall of the parking structure shall be architecturally designed to mimic and reflect the occupied portions of the building in

terms of style and materials. All openings in the parking structure facade shall be of the punched style. These openings shall be consistent with the rhythm of the window openings serving the principal uses within the building. They shall be covered by glass or metal in such a way that the exterior design is compatible with the design of the building and the actual windows of the building. The glass tint and/or reflectivity may be different so as to decrease the visibility of the garage use within. In lieu of glass, the openings may be covered by a hinged solid metal plate/shutter, or recessed decorative grill over a louvered opening as described below. Blind windows, where appropriate shall also be permitted. Where louvers are needed or proposed, decorative grills shall be installed over functional louvers, or other comparable decorative material shall be used in openings or portions of the openings resembling the windows provided above and/or below parking levels. The intent of the above regulations is that no exposed garage exterior wall shall be detectable as a garage at the ground floor level,

4. In order to preserve the maximum number of on-street parking spaces possible, driveway widths and curb cuts shall be limited to the minimum width and number necessary. Driveway / curb cut widths leading to parking areas containing less than twenty (20) cars shall be no more than twelve (12) feet in width. The width of driveways and curb cuts leading to parking areas for twenty (20) cars or more shall be limited to twelve (12) feet for one-way traffic and twenty (20) feet for two-way traffic.
5. All required parking spaces must be a minimum of 8.5 feet wide by 18 feet deep. The placement of a curb up to two (2) feet within the required 18 foot depth of the parking space is permitted, provided that there is adequate area for an automobile occupying the parking space to over-hang said curb a like distance without infringing on required landscaping or pedestrian areas. All aisles shall be a minimum of 22 feet wide. Compact spaces may be provided only with the approval of the Planning Board and shall be a minimum of 8 feet wide by 16 feet deep.
6. Off-street parking and loading areas shall be coordinated with the public street system serving the Redevelopment Area in order to avoid conflicts with vehicular traffic and/or obstruction to pedestrian walkways and thoroughfares. No vehicular access to parking and/or loading areas may be provided from Grove Street or Marin Boulevard.
7. Light sources within any parking level shall not be visible from the exterior of the building either from the street or from other surrounding buildings and properties. Identification of the internal fixture and its location must be provided in order for any application to the Planning Board for site plan to be deemed complete.
8. Where buildings incorporate internal above grade parking garages, facade treatments shall be utilized which integrate their appearance with that of the building as a whole.
9. Developers shall demonstrate to the Board's satisfaction that sufficient off-street loading is provided to meet the needs of the proposed uses.

10. Valet parking may be allowed if it can be demonstrated that an efficient, safe means of operation will be provided, but in no case shall the maximum number of permitted parking spaces be exceeded.
11. All parking provided within the Redevelopment Area shall be for the sole use of the residents or tenants of the building in which the parking is located. Provided, however, that on a large site where multiple buildings are constructed, parking may be shared between the buildings. Parking may not be leased to commuters or other non-residents or non-tenants of the building.
12. The number of required and/or permitted parking spaces for each use is indicated in Section VIII of this Plan.

D. Signage

1. Permitted Signage:

- a. Each residential building shall display the street address of the building on the front facade or front door of the building such that it is visible from the adjoining street right-of-way.
- b. Each residential building may provide any necessary signage required for proper mail delivery indicating the name(s) of the resident(s) of the building on the mailbox or doorbell.
- c. Each major residential building, i.e. buildings on lots of 10,000 square feet or more, may have one (1) exterior sign flush mounted to the façade at the entrance to the building indicating the building's name, if any, not to exceed twenty (20) square feet.
- d. Commercial Uses - Each such use fronting on a public street may be allowed one (1) exterior wall mounted sign not to exceed ten(10%) percent of the area of the storefront (ground floor) to which it is attached. In addition, each commercial tenant may be permitted one blade sign. Each blade sign shall not exceed a maximum of 10 square feet and shall be externally lit. Blade sign are required to be located on the building facade directly on the sidewalk frontage and shall be placed such that the lowest portion of the sign hangs at least 8 feet above the sidewalk.
- e. Tenant directories may be located within the lobby of a building.
- f. Accessory Parking – Since commuter and commercial parking is not permitted, no additional signage is permitted for parking uses.

2. Additional Signage Regulations and Requirements:

- a. All signs are subject to minor site plan review when not included as part of a major site plan application.
- b. All signs shall be flush mounted and project no more than fifteen (15) inches, although blade signs may be attached to the first floor façade.
- c. Window signs (other than lettering as specifically permitted) shall be prohibited. Lettering shall be limited to decorative gold-leaf, flat black or etched / frosted

glass style lettering and shall be limited to the name of the business occupying the commercial space / store front and shall cover no more than twenty (20%) of the window area.

- d. All signs may be attached to the first floor level of the building only. Where there is a two-story lobby or mezzanine space incorporated into the design of the building, the sign may be permitted to be placed above the lobby at the equivalent of the second floor or level with Board approval.
  - e. Permitted signage material includes: 1.) Painted wood; 2.) Painted metals including aluminum and steel; 3.) Brushed finished aluminum, stainless steel, brass, or bronze; 4.) Carved wood or wood substitute.
  - f. Permitted lettering material includes: 1.) Lettering forms applied to the surface of the sign; 2.) Single colored lettering forms applied to the surface of the sign; 3.) Metallic solid body letters with or without returns; 4.) Painted acrylic or metal letter; 5.) Neon style lettering.
  - g. Sign Lighting: Signs may be lit from gooseneck fixtures, backlit halo, up-lights. Internally lit signs and sign boxes are prohibited.
  - h. During construction, one (1) temporary sign indicating: the name of the project or development, general contractor, subcontractor, financing institution and public entity officials (where applicable) shall be permitted. The sign area shall not exceed Fifty (50) square feet.
3. Prohibited Signage: The following signs and devices shall not be permitted within the MGM Redevelopment Area:

Monument signs and internally or externally illuminated box signs, flashing or animated signs, spinners, pennants, reflective materials that sparkle or twinkle, roof signs, billboards, signboards, window signs, posters, plastic or paper that appear to be attached to the window, pole signs, free-standing signs, fluorescent and/or glowing paint for any signage or building within the redevelopment area, waterfall style awnings, plastic awnings, product advertising signage of any kind. Product advertising signage is defined here to include, but not be limited to signage on: parking meters, signage in windows, on light poles, benches or other street furniture within the redevelopment area. Nothing in this paragraph shall be deemed to prohibit either lamppost mounted seasonal banners or traditional residential holiday decorations.

## VIII. SPECIFIC LAND USE REGULATIONS

The Redevelopment Area is a relatively compact area, consisting of parts of two city blocks. Although relatively small in size, the Redevelopment Area is fairly complex in terms of the variety of land-uses and intensity of development that surround it. Large scale mixed-use projects and the Powerhouse Arts District surround the Redevelopment Area to the south and east, while more neighborhood scale development and the Harsimus Cove Historic District are located west and north of the Redevelopment Area. It is the intent of these regulations to allow the MGM Redevelopment Area to act as a transitional area; to allow for larger scale development on larger lots, especially in the eastern and northern sections of the Redevelopment Area, while also allowing for appropriate development on the many smaller lots that exist within the

Redevelopment Area. Therefore, the entire Redevelopment Area is treated as one zoning districts. Land use provisions are regulated relative to lot size as indicated below.

Development on Block 11507 Lot 27 will be regulated by the site plan and variance approval granted by the Jersey City Board of Adjustment.

A. Principal Permitted Uses

1. Townhouses
2. Multi-family Apartment Buildings.
3. Governmental uses.

B. Uses incidental and accessory to the principal use, including:

1. Work/Live Dwelling Units
2. Work/Live Artist Studios.
3. Commercial Uses – limited to the ground floor of multi-family buildings fronting on Grove Street and/or Marin Boulevard only.
  - a. Retail sales of goods and services.
  - b. Restaurants, category one and two.
  - c. Bars.
  - d. Offices.
  - e. Financial institutions.
  - f. Art Galleries.
4. Off-street parking, only within structures as part of the principal building.
5. Recreation facilities and areas, (indoor &/or outdoor) including pools, landscaped yards and decks, active recreation uses, gymnasiums, exercise rooms, etc.
6. Community rooms.
7. Fences and walls.
8. Home occupations.
9. Outdoor seating in conjunction with a restaurant after site plan review and approval.
10. Signs.

C. Permitted Density – In order to encourage the consolidation of lots into larger development parcels, while at the same time permitting reasonable development on the many existing smaller lots, the permitted density will vary in relation to both location and lot size.

Lot Size	Permitted Density
Up to 2,500sq. ft.	55 d.u. per acre
2,501 to 5,000sq. ft.	75 d.u. per acre
5,001 to 9,999 sq. ft.	90 d.u. per acre
10,000 to 14,999 sq. ft.	120 d.u. per acre
15,000 sq. ft. and above	As listed below.

Block 11507 – One Hundred and Eighty (180) units per acre.

Block 11508 – One Hundred and Sixty-Five (165) units per acre.

D. Dwelling Unit Size – interior measurement

Average dwelling unit size within any building must be at least 1,100 square feet, and no dwelling unit shall be less than 800 square feet in area.

E. Permitted Height - Building height shall be as indicated on  
Map 3 – Permitted Height.

1. Additional Height Regulations:

- a. All new buildings fronting on Grove Street shall be four (4) stories tall and match the height of the adjoining buildings on Grove Street. Existing buildings on Grove Street shall maintain their existing heights.
- b. Any building constructed in sub-districts F, G and H as indicated on Map 3 – Permitted Height shall be permitted two additional residential stories above the permitted height, provided that they are set back at least ten (10) feet from the front façade and the total height of the building is not increased by more than twenty (20) feet above the permitted height.
- c. Any building constructed on a lot of less than 10,000 square feet in area, shall not exceed a height of sixty-five (65) feet.
- d. All residential floors above the first floor shall have a minimum floor to ceiling height of nine (9) feet. Residential units on the first floor shall have a minimum floor to ceiling height of ten (10) feet. Residential units on the first floor of any building shall be raised at least two (2) feet above the grade of the adjoining sidewalk.
- e. Ground floor commercial areas along Grove Street shall be designed to match the height of the existing structure(s) along Grove Street. Commercial areas along Marin Boulevard shall have a minimum floor to ceiling height of fourteen (14) feet. In addition, ground floor commercial space along Marin Boulevard may include a mezzanine level, which shall not be counted as a floor in conformance with International Building Code standards.
- f. Parapets and other roof-top appurtenances may exceed the permitted height within the limitations imposed by the Jersey City Land Development Ordinance.

F. Required Lot Size – All lots existing at the time of adoption of this Plan shall be considered conforming lots and may be developed in conformance with this Plan.

G. Permitted Coverage

Lot Size	Building Coverage	Lot Cov.
Up to 5,000 sq. ft.	75%	80%
5,001 to 9,999 sq. ft.	85%	90%
10,000 sq. ft. and above	100% for the parking structure portion of the building provided that the roof of the parking structure is no taller than 35 feet and the residential building above the parking structure covers no more than 65% of the site, provided landscaping is incorporated over the roof of the parking structure..	100%

H. Required Setbacks

1. Front – Front setback shall match adjoining buildings, if any. Commercial uses may be located up to the front property line in order to adjoin the sidewalk. Additional front setbacks may be required in order to meet appropriate sidewalk widths and/or to meet the Design Standards found in Section VII of this Plan. Maximum front setback shall be 10 feet.
2. Side – None required.
3. Rear –

Lot Size	Minimum Rear Setback
Up to 5,000 sq. ft.	20 feet
5,001 to 9,999 sq. ft.	15 feet
10,000 sq. ft. and above.	Zero for the parking structure portion of the building provided that the roof of the parking structure is no taller than 35 feet. The rear wall of the residential portion of the building above the parking structure may not be constructed further than 70 feet back from the front property line / street line. In the case of a corner lot or through lot, all street lines shall be considered front property lines, and the building may wrap the corner.

I. Parking Requirements

1. All Residential Uses –

Lot Size	Minimum	Maximum
Up to 2,500 sq. ft.	Zero	1.0 space per unit
Over 2,500 sq.ft.	0.5 space per unit	1.0 space per unit

2. All Other Uses -

Minimum – Zero

Maximum - 1.0 space per 1,000 sq.ft.

- J. Abutting Luis Munoz Marin Blvd.: A minimum of 5 feet Step back is required at the top of the fourth (4th) story.

## **IX. ACQUISITION PLAN**

An Acquisition Plan is provided on Map 4 entitled, Morgan/Grove/ Marin (MGM) Redevelopment Plan Acquisition Map.

## **X. RELOCATION PLAN**

There is expected to be only very limited acquisition of occupied properties by the municipality or redevelopment agency. Nonetheless, should relocation of persons or businesses become necessary, the process of relocating the affected persons and businesses will receive the careful attention of local officials and the Jersey City Redevelopment Agency, and be conducted in accordance with the requirements of all applicable Federal, State and Local laws.

## **XI. CIRCULATION PLAN**

1. It is the intent of this Circulation Plan to provide a street layout for the Redevelopment Area which is adequate to meet the circulation needs of the Redevelopment Area in terms of vehicular traffic and pedestrian volume, while at the same time recognizing that it is a primary purpose of this Redevelopment Plan to promote the principles of a "Transit Village". That is; to provide pedestrian friendly streets and public rights-of-way, to minimize automobile use by maximizing the appeal of mass transit and to encourage reduced parking and shared use parking solutions.
2. All streets and rights of way within the Redevelopment Area shall remain open to the public. The configuration of all streets within the Redevelopment Area is expected to remain as it is. To the greatest extent practical, all streets should provide on street parking on both sides of the street unless restricted by local ordinance.
3. Sidewalk areas must be provided on both sides of the street and shall be properly sized for the safe and convenient movement of pedestrians through and around the Area, taking into consideration the character of the adjoining area. In general, sidewalks serving commercial areas should be wider than those serving residential uses. Sidewalks on busier, wider streets such as Marin Boulevard and Grove Street should be wider than sidewalks on the side streets in the Redevelopment Area.

## **II. OTHER PROVISIONS TO MEET STATE AND LOCAL REQUIREMENTS**

In accordance with NJSA 40A:12A-1 et seq., Chapter 79, Laws of New Jersey 1992, known as "The Local Redevelopment and Housing Law", the following statements are made:

- A. The Plan herein has delineated a definite relationship to local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreation and community facilities and other public improvements.
- B. The Plan has laid out various strategies needed to be implemented in order to carry out the objectives of this Plan.
- C. The Plan has given proposed land uses and building requirements for the Redevelopment Area.
- D. The Acquisition Map and Acquisition Plan (Section IX), which are a part of this Plan, indicate all property to be acquired as a result of this Plan.
- E. The Plan is in general compliance with the Jersey City Master Plan and the Master Plan of the County of Hudson. It is not contrary to the goals and objectives of the Jersey City Master Plan. The Plan complies with the goals and objectives of the New Jersey Development and Redevelopment Plan in that this Plan and the State's plan both recognize the need to redevelop urban land.
- F. This Redevelopment Plan shall supersede all provisions of the Jersey City Zoning Ordinance that are specifically addressed herein. Any zoning related question that is not addressed herein shall refer to the Jersey City Zoning Ordinance for clarification. No variance from the requirements herein shall be cognizable by the Zoning Board of Adjustment. The Planning Board alone shall have the authority to grant deviations from the requirements of this plan, as provided herein. Upon final adoption of this Plan by the Municipal Council of Jersey City, the Jersey City Zoning Map shall be amended to rezone the Redevelopment Area covered by this Plan as a Redevelopment Area, and all underlying zoning will be voided.

### **XIII. PROCEDURE FOR AMENDING THE PLAN**

- A. This Plan may be amended from time to time upon compliance with the requirements of law. A fee of five thousand dollars (\$5,000), plus all costs for copying and transcripts shall be payable to the City of Jersey City for any request to amend this Plan. If there is a designated developer, as provided for under NJSA 40A: 12A-1 et. seq., said developer shall pay these costs. If there is no developer the appropriate agency shall be responsible for any and all costs.
- B. No amendment to this Plan shall be approved without the review and recommendation of the Planning Board, and a public hearing and adoption by Municipal Council. A copy of any proposed change to the Plan shall be filed with the Office of the City Clerk.

#### XIV. DEFINITIONS

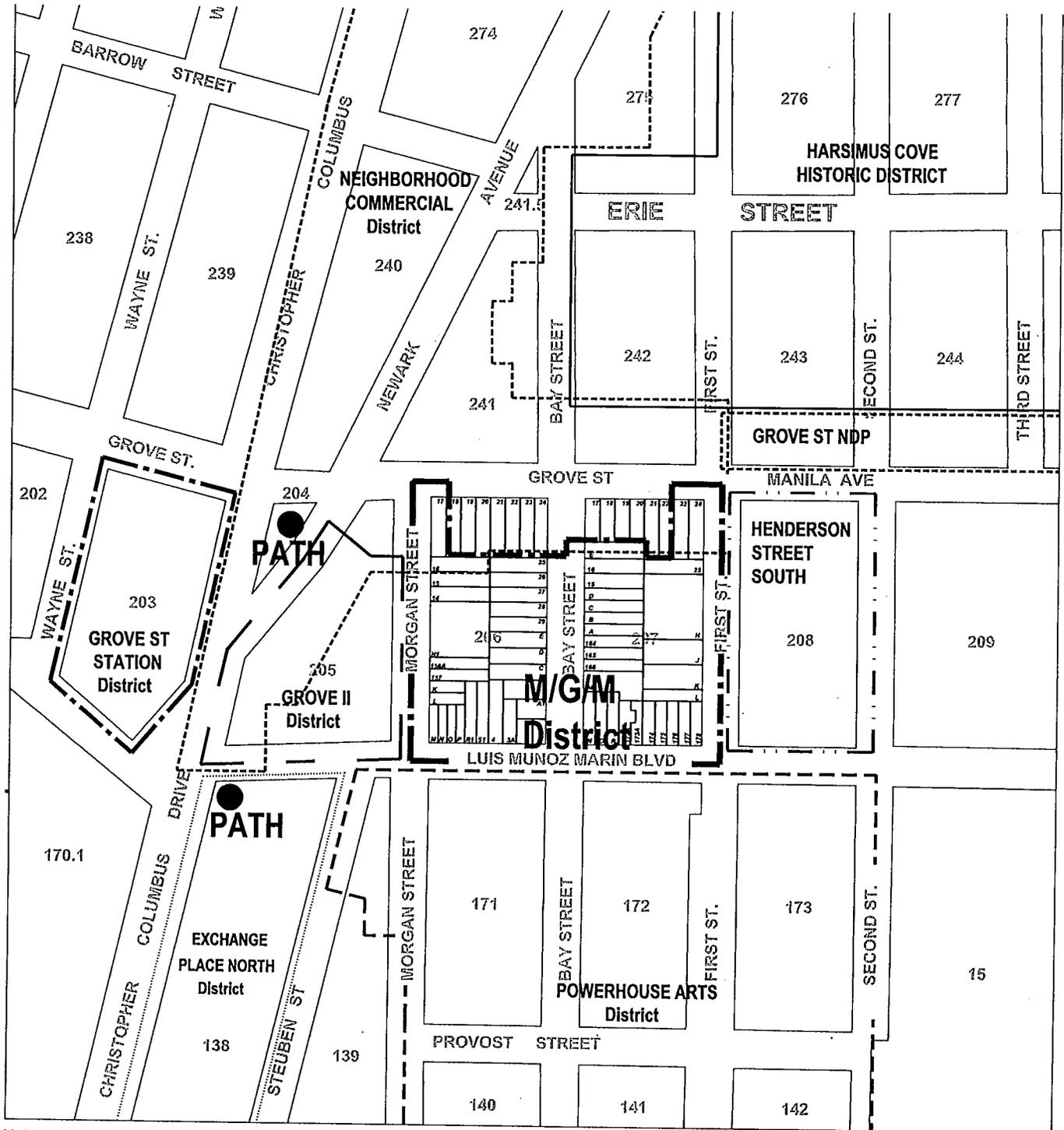
Definitions contained herein shall prevail within the Redevelopment Area. For definitions not contained herein, the definitions contained in the City of Jersey City Zoning Ordinance shall prevail.

**Multi-family Apartment Building** – A building containing three (3) or more dwelling units that share common horizontal and/or vertical separations, and which may also contain such accessory uses as permitted by this Redevelopment Plan.

**Work/Live Unit** – *A unit that adheres to all of the standards of a Home Occupation except that a minimum of 900 (nine hundred) square feet must be provided, a maximum 50% of which may be used as work space and the remaining space is used for residential purposes. There is no maximum square footage to the workspace so long as it does not exceed 50% of the total unit area.* ~~**Work/Live Dwelling Unit** – A single, enclosed, private space of at least nine hundred (900) square feet, where not more than one-half of the area of the total space is dedicated to work space for the use of a person or persons engaged in a profession or other occupation in a business office setting. The remaining area within the space must be used for residential purposes and the person engaged in the profession or occupation must reside within the premises. Not more than two (2) full time or full time equivalent employees not residing within the premises may be employed. The professions and occupations shall include:~~

- ~~• Computer or information technology.~~
- ~~• Computer graphics and computer aided design.~~
- ~~• The graphic arts.~~
- ~~• The offices of architects, planners, lawyers, accountants.~~
- ~~• Similar business occupations as determined by the Planning Board.~~

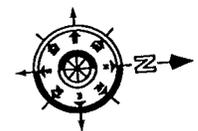
XV  
MAPS



Not to Scale

# MAP 1: Morgan/Grove/Marin (MGM) Local Area

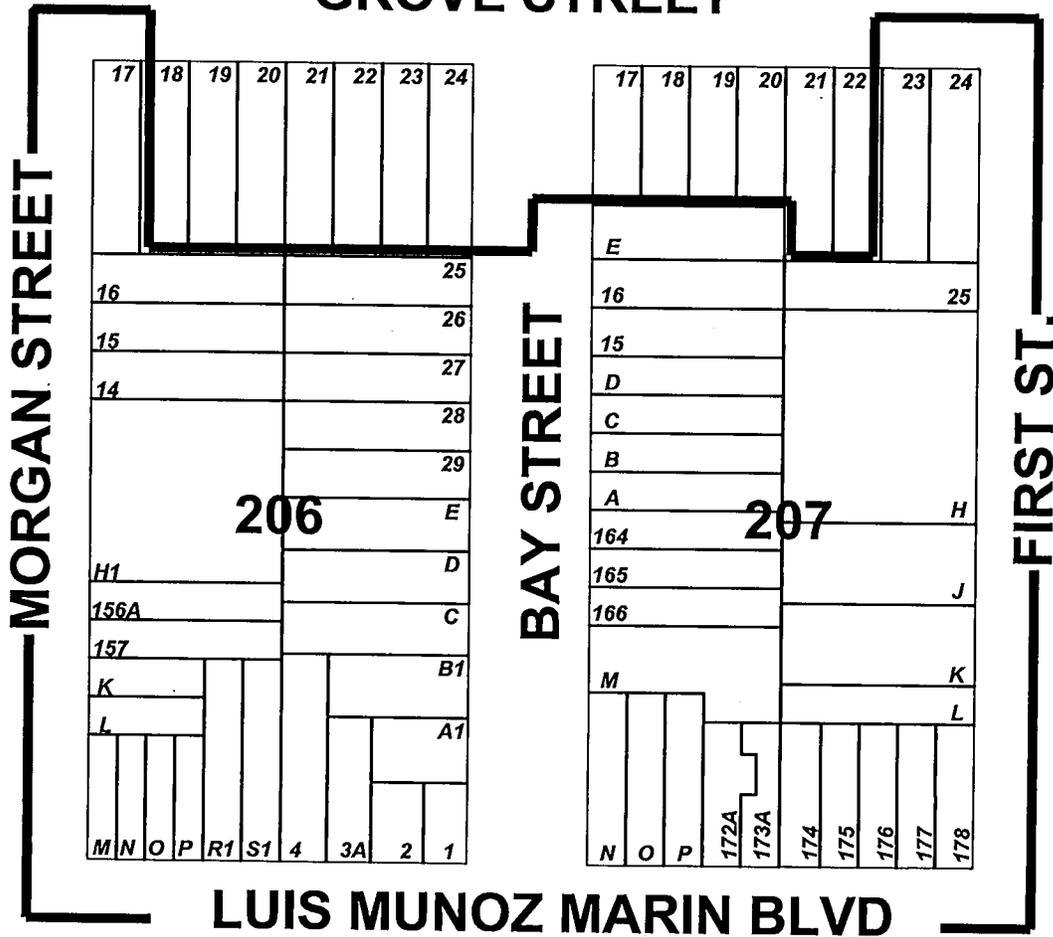
June 2005



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GROVE STREET



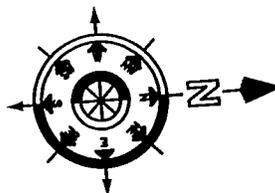
171

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scale: 1 inch equal 100 feet

MAP 2: Morgan/Grove/Marin (MGM) Redevelopment Plan Boundary Map

June 2005





MAP 3: Morgan/Grove/Marin (MGM)  
June 2005



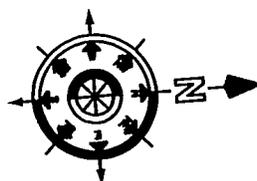
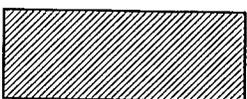
MGM Redevelopment Plan - Permitted Height	
Sub-District	Maximum Permitted Height <i>(Also refer to Section VIII.E.1 for Additional Height Regulations)</i>
<b>A</b>	Four (4) stories to match adjoining buildings on Grove Street
<b>B</b>	As regulated by the Board of Adjustment Site Plan and Variance Approval
<b>C</b>	Renovation District. All buildings must maintain their existing height. New construction on lot #28. Four (4) stories and forty-five (45) feet.
<b>D</b>	Six (6) stories and sixty-five (65) feet.
<b>E</b>	Eight (8) stories and eighty (80) feet.
<b>F</b>	Eight (8) stories and eighty (80) feet, plus setback residential floors pursuant to Section VIII.1.b.
<b>G</b>	Nine (9) stories and ninety (90) feet, plus setback residential floors pursuant to Section VIII.1.b.
<b>H</b>	Ten (10) stories and one hundred (100) feet, plus setback residential floors pursuant to Section VIII.1.b.



scale: 1 inch equal 100 feet

MAP 4: Morgan/Grove/Marin (MGM) Redevelopment Plan  
Acquisition Map

June 2005



Properties NOT TO BE ACQUIRED

City Clerk File No. Ord. 12-144

Agenda No. 3.E 1st Reading

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



## ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-144

**TITLE: ORDINANCE APPROVING A 10 YEAR TAX EXEMPTION FOR A MARKET RATE MIXED USE RENTAL PROJECT TO BE CONSTRUCTED BY 148 FIRST STREET URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.**

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

**WHEREAS**, 148 First Street Urban Renewal, LLC, an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. (Entity); and

**WHEREAS**, the Entity owns certain vacant property known as Block 11502, Lots 5.02, 7 and 8, on the City's Official Tax map, consisting of approximately .287 acres, more commonly known by the street address of 148 First Street, and more specifically described by metes and bounds, in the application (Property); and

**WHEREAS**, the Property is located within the Powerhouse Arts District Redevelopment Plan Area rendering it eligible for tax exemption under N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g), which requires residences to contain 10% affordable units; and

**WHEREAS**, the Entity has applied for a 10 year long term tax exemption to construct a new mixed use twelve (12) story building, containing approximately one hundred fourteen (114) residential market rate rental units, and six (6) moderate or workforce affordable housing units on site, and approximately two thousand four hundred fifty eight (2,458) square feet of ground level retail/commercial space, within the property (Project); and

**WHEREAS**, the Project received a site plan approval from the Planning Board on July 10, 2012; and

**WHEREAS**, 148 First Street Urban Renewal, LLC, has agreed to:

1. pay the greater of (i) the Minimum Annual Service Charge or (ii) 12% of the Annual Gross Revenue for the first five (5) years of the exemption and 13% of the Annual Gross Revenue for the final five (5) years of the exemption for the market rate units and ground level retail/commercial space; and 10% of Annual Gross Revenue for the entire term of the exemption for the affordable moderate/workforce housing units; all of which shall be subject to statutory staged increases over the term of the tax exemption; and
2. pay an annual sum equal to 2% of each prior year's Annual Service Charge as an Administrative Fee; and
3. provide employment and other economic opportunities for City residents and businesses; and
4. pay to the City, for remittance to Hudson County, an amount equal to 5% of the Annual Service Charge upon receipt of that charge; and

**ORDINANCE APPROVING A 10 YEAR TAX EXEMPTION FOR A MARKET RATE MIXED USE RENTAL PROJECT TO BE CONSTRUCTED BY 148 FIRST STREET URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.**

5. construct six (6) units of affordable moderate/workforce housing on site, six (6) units of affordable moderate/workforce housing off site, and an Affordable Housing contribution equal to \$171,000, exclusive of any sum owed pursuant to the Powerhouse Arts District; and

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

1. the current real estate taxes generate revenue of only \$42,386 whereas, the Annual Service Charge as estimated, will initially generate revenue of more than \$313,091 to the City and an additional sum of approximately \$15,655 to Hudson County;
2. it is expected that the Project will create approximately 90 jobs during construction and 9 new permanent jobs;
3. the Project will stabilize and contribute to the economic growth of businesses in the surrounding area;
4. the Project will further the overall redevelopment objectives of the Powerhouse Arts District Redevelopment Plan;
5. the City's cost benefit impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

**WHEREAS**, 148 First Street Urban Renewal, LLC, has initially complied with Executive Order 2002-005 concerning "Disclosure of Lobbyist Representative Status" by filing an appropriate letter in the Office of the City Clerk; and

**WHEREAS**, 148 First Urban Renewal, LLC is not required to comply with the City of Jersey City's Ordinance 07-123, Requiring Apprenticeships and Project Labor Agreements; and

**WHEREAS**, on September 18, 2012, the Tax Exemption Committee recommended the approval of the tax exemption to the Mayor.

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

- A. The application of 148 First Street Urban Renewal, LLC, an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. a copy of which is on file in the office of the City Clerk, for Block 11502, Lots 5.02, 7 and 8, more commonly known by the street address of 148 First Street, more specifically described by metes and bounds in the application, is hereby approved.

**ORDINANCE APPROVING A 10 YEAR TAX EXEMPTION FOR A MARKET RATE MIXED USE RENTAL PROJECT TO BE CONSTRUCTED BY 148 FIRST STREET URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.**

B. The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement and a Project Employment and Contracting Agreement. The Financial Agreement shall include at a minimum the following terms and conditions:

1. Term: the earlier of 12 years from the adoption of the within Ordinance or 10 years from the date the project is Substantially Complete;
2. Annual Service Charge: each year the greater of:
  - (a) the Minimum Annual Service Charge equal to \$313,091 upon Project Completion, whether or not the Project is occupied; or
  - (b) 12% of the Annual Gross Revenue for the first five (5) years of the abatement and 13% of the Annual Gross Revenue for the final five (5) years of the abatement for the market rate units and ground level retail space, and 10% of Annual Gross Revenue for the 10 year term of the abatement for the affordable moderate/workforce housing units, which sum is estimated to be approximately \$313,091 in years 1 through 5; and approximately \$338,774 in years 6 through 10 of the tax abatement, and all of which shall be subject to statutory increases during the term of the tax exemption.
3. Administrative Fee: 2% of the prior year's Annual Service Charge;
4. County Payment: 5% of the Annual Service Charge to the City for remittance by the City to Hudson County;
5. Project: A mixed use twelve (12) story building, market rate residential rental project, which will consist of approximately one hundred fourteen (114) residential rental units, approximately six (6) moderate or workforce affordable housing units on site, six (6) moderate or workforce units off site, and approximately two thousand four hundred fifty eight (2,458) square feet of ground level retail/commercial space;
6. Affordable Housing Trust Fund: and make an affordable housing contribution of \$171,000;
7. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses;
8. This Ordinance will sunset and the Tax Exemption will terminate unless construction of the Project begins (that is, the building's footings or foundation completed) within six (6) months of the adoption of the within Ordinance, subject to no more than a six (6) month extension by resolution of the Municipal Council for good cause shown.

C. The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Tax Assessor and Director of the Division of Local Government Services.

D. The application is on file with the office of the City Clerk. The Financial Agreement and Project Employment and Contracting Agreement shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.

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

**ORDINANCE APPROVING A 10 YEAR TAX EXEMPTION FOR A MARKET RATE MIXED USE RENTAL PROJECT TO BE CONSTRUCTED BY 148 FIRST STREET URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.**

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

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

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

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

*JM/he*  
*10/12/12*

APPROVED AS TO LEGAL FORM

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

APPROVED: \_\_\_\_\_

APPROVED: *[Signature]*  
Business Administrator

Certification Required   
Not Required

Rev. 10-12-12  
Long Term Tax Exemption  
N.J.S.A. 40A:20-1, et seq.  
(New Market Rate Res Rental FA)

Re: 148 First Street  
Approximately .287 Acres  
Block 11502, Lots 5.02, 7 and 8  
Powerhouse Arts District Redevelopment Plan or

**PREAMBLE**

**THIS FINANCIAL AGREEMENT**, [Agreement] is made the \_\_\_\_\_ day of \_\_, 2012, by and between **148 FIRST STREET URBAN RENEWAL, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at 148 First Street, 2<sup>nd</sup> Floor, Jersey City, NJ [Entity], and the **CITY OF JERSEY CITY**, a Municipal Corporation of the State of New Jersey, having its principal office at 280 Grove Street, Jersey City, New Jersey 07302 [City].

**RECITALS**

**WITNESSETH:**

**WHEREAS**, the Entity is the Owner of certain vacant property designated as Block 11502, Lots 5.02, 7 and 8, more commonly known by the street address of 148 First Street, Jersey City, 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 Powerhouse Arts District Redevelopment Plan Area, which requires residences to contain a minimum of set aside of 10% of the units for affordable housing; and

**WHEREAS**, the Entity plans to construct a twelve (12) story building with approximately one hundred fourteen (114) market rate residential rental units, plus six (6) moderate/workforce affordable housing units on site, and approximately two thousand four hundred fifty eight (2,458) square feet of ground level retail/commercial space; [Project]; and

**WHEREAS**, on July 10, 2012, the Project received site plan approval from the Planning

Board; and

**WHEREAS**, on September 5, 2012, the Entity filed an Application with the City for a long term tax exemption for the Project; and

**WHEREAS**, by the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 2012, the Municipal Council approved a long term tax exemption for the Project and authorized the execution of a Financial Agreement; and

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

- A. Relative Benefits of the Project when compared to the costs:
  - 1. the current real estate tax generates revenue of only \$42,386, whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately \$313,091 in years 1 through 5; and approximately \$338,774 in years 6 through 10 of the tax abatement;
  - 2. the Entity will provide six (6) units of affordable moderate/workforce housing on site, six (6) units off site, and an Affordable Housing contribution equal to \$171,000, as an affordable housing contribution pursuant to Ordinance 03-112;
  - 3. it is expected that the Project will create approximately ninety (90) new construction jobs and nine (9) new permanent full time jobs;
  - 4. the project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants;
  - 5. the Project will further the redevelopment objectives of the Powerhouse Arts District Redevelopment Plan, which include [remediation or development of vacant property];
  - 6. the City's cost benefit impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and
  
- B. Assessment of the Importance of the Tax Exemption in obtaining development of the project and influencing the locational decisions of probable occupants:
  - 1. the relative stability and predictability of the annual service charges will make the Project more attractive to investors and lenders needed to finance the Project; and

2. the relative stability and predictability of the service charges will allow the owner to stabilize its operating budget, allowing a high level of maintenance to the building over the life of the Project, which will attract occupants to the Project, insure the likelihood of stabilized rents to tenants and the success of the Project; and
3. have a positive impact on the surrounding area.

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

### **ARTICLE I - GENERAL PROVISIONS**

#### **Section 1.1 Governing Law**

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

#### **Section 1.2 General Definitions**

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

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

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

incorporated herein by reference.

iii. Annual Gross Revenue Any and all revenue derived from or generated by the Project of whatever kind or amount, whether received as rent from any tenants or income or fees from third parties, including but not limited to fees or income paid or received for parking, or as user fees or for any other services. No deductions will be allowed for operating or maintenance costs, including, but not limited to gas, electric, water and sewer, other utilities, garbage removal and insurance charges, whether paid for by the landlord, tenant or a third party.

iv. Annual Service Charge - The amount the Entity has agreed to pay the City each year for municipal services supplied to the Project, which sum is in lieu of any taxes on the Improvements, pursuant to N.J.S.A. 40A:20-12. It shall include an annual payment for all annual excess profit.

v. Auditor's Report - A complete annual financial statement outlining the financial status of the Project, which shall also include a certification of Total Project Cost and clear computation of the annual Net Profit. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles and shall contain at a minimum the following: a balance sheet, a statement of income, a statement of retained earnings or changes in stockholders' equity, a statement of cash flows, descriptions of accounting policies, notes to financial statements and appropriate schedules and explanatory material results of operations, cash flows and any other items required by Law. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

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

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

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

grace or cure periods.

ix. Entity - The term Entity within this Agreement shall mean 148 First Street Urban Renewal, LLC, which Entity is formed and qualified pursuant to N.J.S.A. 40A:20-5. It shall also include any subsequent purchasers or successors in interest of the Project, provided they are formed and operate under the Law.

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

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

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

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

xiv. Law - Law shall refer to the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1, et seq.; Executive Order of the Mayor 02-003, relating to long term tax exemption, as it may be and supplemented; Ordinance 02-075 requiring Disclosure of Lobbyist Status and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement and all other relevant Federal, State or City statutes, ordinances, resolutions, rules and regulations.

xv. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be equal to \$42,386 until substantial completion. Upon substantial completion, the Minimum Annual Service Charge shall be equal to the estimated Service Charge, \$313,091.

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

(1) there shall be included in expenses: (a) all Annual Service charges paid pursuant to N.J.S.A. 40A:20-12; (b) all annual payments to the City of excess profits pursuant to N.J.S.A. 40A:20-15 or N.J.S.A. 40A:20-16; (c) an annual amount sufficient to amortize (utilizing the straight

line method-equal annual amounts) the Total Project Cost and all capital costs determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits over the term of this agreement; (d) all reasonable annual operating expenses of the Entity and any other entity whose revenue is included in the computation of excess profits including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies and payments into repair or maintenance reserve accounts; (e) all payments of rent including but not limited to ground rent by the Entity; (f) all debt service; and

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

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

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

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

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

than its estimated Total Project Cost.

**ARTICLE II - APPROVAL**

**Section 2.1 Approval of Tax Exemption**

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor’s Map of the City as: Block 11502, Lots 5.02, 7 and 8, more commonly known by the street address 148 First Street, Jersey City, and described by metes and bounds in Exhibit 1 attached hereto.

**Section 2.2 Approval of Entity**

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

**Section 2.3 Improvements to be Constructed**

Entity represents that it will construct a twelve (12) story building with approximately one hundred fourteen (114) market rate residential rental units, plus six (6) moderate/workforce affordable housing units on site, and approximately two thousand four hundred fifty eight (2,458) square feet of ground level retail/commercial space; all of which is specifically described in the Application attached hereto as Exhibit 3.

**Section 2.4 Off Site Units**

The requirement of constructing six (6) off site units pursuant to the Powerhouse Arts District Redevelopment Plan shall be satisfied as follows:

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**Section 2.5 Construction Schedule**

The Entity agrees to diligently undertake to commence construction and complete the Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5, and in

compliance with any Redevelopment Agreement. More specifically, the Entity agrees that it will complete the construction of the footings (or foundation) for the Project no later than six (6) months from the date of the adoption of Ordinance \_\_\_\_\_, subject to no more than a six (6) month extension by resolution of the Municipal Council for good cause shown.

**Section 2.6 Ownership, Management and Control**

The Entity represents that it is the owner of the property upon which the Project is to be constructed. Upon construction, the Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and any Redevelopment Agreement.

**Section 2.7 Financial Plan**

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

**Section 2.8 Good Faith Estimate of Initial Sale Prices or Rents**

The Entity represents that its good faith projections of the initial rents and other revenue to the Project are set forth in Exhibit 7.

**ARTICLE III - DURATION OF AGREEMENT**

**Section 3.1 Term**

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of 12 years from the date of the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 2012, which approved the tax exemption or 10 years from the original date of Substantial Completion of the Project or \_\_\_\_\_ 2012. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the Project is owned by a corporation or association formed and operating under the Law.

**ARTICLE IV - ANNUAL SERVICE CHARGE**

**Section 4.1 Annual Service Charge**

In consideration of the tax exemption, the Entity shall make the following annual payments

to the City for services provided to the Project:

i. City Service Charge: an amount equal to the greater of: the Minimum Annual Service Charge or an Annual Service Charge equal to:

a) 12% of the Annual Gross Revenue for the first five (5) years; 13% of the Annual Gross Revenue for the final five (5) years of the abatement; and

b) 10% of the Annual Gross Revenue for the twelve (12) affordable moderate or workforce housing units.

The Annual Service Charge shall be billed initially based upon the Entity's estimates of Annual Gross Revenue, attached hereto as Exhibit 6. Thereafter, the Annual Service Charge shall be adjusted in accordance with this Agreement.

ii. County Service Charge: an amount equal to 5% of the Municipal Annual Service Charge shall be paid to the City and remitted by the City to the County.

iii. A Minimum Annual Service Charge shall be due beginning on the effective date of this Agreement. The City and County Annual Service Charge shall be due on the first day of the month following the Substantial Completion of the Project. In the event the Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid.

#### **Section 4.2 Staged Adjustments**

The Annual Service Charge shall be adjusted, in Stages over the term of the tax exemption in accordance with N.J.S.A. 40A:20-12(b) as follows:

i. Stage One: From the 1st day of the month following Substantial Completion until the last day of the 6th year, the Annual Service Charge shall be 12% of Annual Gross Revenue;

ii. Stage Two: Beginning on the 1<sup>st</sup> day of the 7th year following Substantial Completion until the last day of the 9th year, an amount equal to the greater of the Annual Service Charge or 20% of the amount of the taxes otherwise due on the assessed value of the land and Improvements;

iii. Stage Three: Beginning on the 1st day of the 10th year following the Substantial Completion until the last day of the 12th year, an amount equal to the greater of the Annual Service Charge or 40% of the amount of the taxes otherwise due on the assessed value of the land and Improvements;

iv. Stage Four: Beginning on the 1st day of the 13th year following Substantial Completion until the last day of the 14th year, an amount equal to the greater of the Annual Service Charge or 60% of the amount of the taxes otherwise due on the assessed value of the land and Improvements.

v. Final Stage: Beginning on the 1st day of the 15th year following Substantial Completion through the date the tax exemption expires, an amount equal to the greater of the Annual Service Charge or 80% of the amount of the taxes otherwise due on the assessed value of the land and Improvements.

#### **Section 4.3 Land Tax**

The Entity is required to pay both the Annual Service Charge and the Land Tax Payments. The Entity is obligated to make timely Land Tax Payments, including any tax on the pre-existing improvements, in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. The Entity shall be entitled to credit for the amount, without interest, of the Land Tax Payments made in the last four preceding quarterly installments against the Annual Service Charge. In any quarter that the Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render the Entity ineligible for any Land Tax Payment credit against the Annual Service Charge. No credit will be applied against the Annual Service Charge for a partial payment of Land Taxes. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. and/or declare a Default and terminate this Agreement.

#### **Section 4.4 Quarterly Installments / Interest**

The Entity expressly agrees that the Annual Service Charge shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the Entity fails to pay the Annual Service Charge or any other charge due under this agreement, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid in full.

#### **Section 4.5 Administrative Fee**

The Entity shall also pay an annual Administrative Fee to the City in addition to the Annual

Service Charge and Land Tax levy. The Administrative Fee shall be calculated as two (2%) percent of each prior year's Annual Service Charge. This fee shall be payable and due on or before December 31st of each year, and collected in the same manner as the Annual Service Charge.

**Section 4.6 Affordable Housing Contribution and Remedies**

Separate and apart from any charge due under the Powerhouse Arts District Redevelopment Plan, which requires the construction of twelve (12) affordable housing units, 50% of which can be on site and 50% of which can be off site, which does not exempt it from an Affordable Housing Trust Fund contribution since only projects with 15% affordable are exempt, the Entity's affordable housing contribution shall be \$171,000.

A. **Contribution.** The Entity will pay the City the sum of \$171,000 as a contribution.

The sum shall be due and payable as follows:

- i. 1/3 on or before the effective adoption date of the ordinance approving the tax exemption;
- ii. 1/3 on or before the issuance of the first of any construction permit for the Project, but no later than six months after the date of the Financial Agreement; and
- iii. 1/3 on or before the date the first of any Certificate of Occupancy is issued for the Project, but no later than twenty-four (24) months after the date of the Financial Agreement.

**Section 4.7 Material Conditions**

It is expressly agreed and understood that the timely payments of Land Taxes, Minimum Annual Service Charges, Annual Service Charges, including adjustments thereto, Administrative Fees, Affordable Housing Contributions, and any interest thereon, are Material Conditions of this Agreement.

**ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT**

**Section 5.1 Project Employment and Contracting Agreement**

In order to provide City residents and businesses with certain employment and other economic related opportunities, the Entity is subject to the terms and conditions of the Project Employment and Contracting Agreement, attached hereto as Exhibit 8.

**ARTICLE VI - CERTIFICATE OF OCCUPANCY**

**Section 6.1 Certificate of Occupancy**

It is understood and agreed that it shall be the obligation of the Entity to obtain all

Certificates of Occupancy in a timely manner so as to complete construction in accordance with the proposed construction schedule attached hereto as Exhibit 5. The failure to secure the Certificates of Occupancy shall subject the Property to full taxation for the period between the date of Substantial Completion and the date the Certificate of Occupancy is obtained.

**Section 6.2 Filing of Certificate of Occupancy**

It shall be the primary responsibility of the Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy.

Failure of the Entity to file such issued Certificate of Occupancy as required by the preceding paragraph, shall not militate against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by the Entity.

**ARTICLE VII - ANNUAL REPORTS**

**Section 7.1 Accounting System**

The Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles.

**Section 7.2 Periodic Reports**

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the Entity's accounting basis that the Agreement shall continue in effect, the Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Project and such details as may relate to the financial affairs of the Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement. The Report shall clearly identify and calculate the Net Profit for the Entity during the previous year, the excess of which shall be paid to the City each year an excess profit is generated.

B. Total Project Cost Audit: Within ninety (90) days after Substantial Completion of the Project, the Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project

Cost, including but not limited to an audit of actual construction costs as certified by the Project architect.

C. Disclosure Statement: On the anniversary date of the execution of this Agreement, and each and every year thereafter while this agreement is in effect, the Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, a Disclosure Statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each and such additional information as the City may request from time to time. All disclosures shall include ownership interests of the individual persons owning any corporate interest in the Entity.

### **Section 7.3 Inspection/Audit**

The Entity shall permit the inspection of its property, equipment, buildings and other facilities of the Project and, if deemed appropriate or necessary, any other related Entity by representatives duly authorized by the City or 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 for any year during which the tax exemption financial agreement was in full force and effect.

### **Section 7.4 Costs**

All fees and costs incurred by the City to conduct a review of the Entity's audits, including reasonable attorneys' fees if appropriate, shall be billed to the Entity and paid to the City as part of the Entity's Annual Service Charge. Delinquent payments shall accrue interest at the same rate as for a delinquent service charge.

## **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 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 five (5%) percent of the Gross Revenue 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 non-cumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of five (5%) percent of the preceding year's Gross Revenue. Pursuant to N.J.S.A. 40A:20-14(b) there is expressly excluded from the calculation of Gross Revenue and Net Profit in the determination of Excess Profit, any gain realized by the Entity on the sale of any condominium unit, whether or not taxable under federal or state law.

**Section 8.2 Annual Payment of Excess Net Profit**

In the event the Net Profits of the Entity, in any year, exceeds the Allowable Net Profits for such year, then the Entity, within one hundred and twenty (120) days after the end of the year, shall pay such excess Net Profits to the City as an additional annual service charge; provided, however, that the Entity may maintain a reserve as determined pursuant to aforementioned paragraph 8.1. The calculation of the Entity's Excess Net Profits shall include those project costs directly attributable to site remediation and cleanup expenses and any other costs excluded in the definition of Total Project Cost in Section 1.2 (xx) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

**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 ninety (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 balance of the Annual Excess Net Profit, if any.

**ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION**

**Section 9.1 Approval of Sale**

Any 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 are fully assumed by the new Entity; 5) the Entity is comprised of principals

possessing substantially the same or better business reputation, financial qualifications and credit worthiness of the Entity; and 6) the Entity pays in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d).

Nothing herein shall prohibit any transfer of the ownership interest in the Entity itself provided that the transfer, if greater than 10%, is disclosed to the City in the annual disclosure statement or in correspondence sent to the City in advance of the filing of the annual disclosure statement.

**Section 9.2 Transfer Application 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.

**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 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.

**Section 10.2 Disclosure of Lobbyist Representative**

During the term of this Agreement, the Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The Entity's failure to comply with the Executive Order or the Ordinance 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 to conform with the terms of this Agreement or failure of the Entity 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 and exclusive remedy available to the Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

Subsequent to such sixty (60) days, or any approved extension, the City shall have the right to terminate this Agreement in accordance with Section 12.1.

Should the Entity be in default due to a failure to pay any charges defined as Material Conditions in Section 4.7, the Entity shall not be subject to the default procedural remedies as provided herein but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII herein.

### **Section 11.3 Remedies Upon Default**

The City shall, among its other remedies, have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. In order to secure the full and timely payment of the Annual Service Charge, the City on its own behalf, or on behalf of the Trustee, reserves the right to prosecute an In Rem Tax Foreclosure action against the Project Area in accordance with Applicable Law, as more fully set forth in this Financial Agreement.

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided in Article XI herein, but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City

of any of its remedies or actions against the Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

In the event of a Default on the part of the Entity to pay any charges set forth in Article IV, the City among its other remedies, reserves the right to proceed against the Entity's land and property, in the manner provided by the In Rem Foreclosure Act, and any act supplementary or amendatory thereof. Whenever the word taxes appear, or is applied, directly or impliedly to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this Agreement, as if the charges were taxes or municipal liens on land.

## **ARTICLE XII- TERMINATION**

### **Section 12.1 Termination Upon Default of the Entity**

In the event the Entity fails to cure or remedy the Default within the time period provided in Section 11.2, the City may terminate this Agreement upon thirty (30) days written notice to the Entity [Notice of Termination].

### **Section 12.2 Voluntary Termination by the Entity**

The Entity may notify the City that it will relinquish its status as a tax exempt Project, after the expiration of one year from the Substantial Completion of the Project , as of the January 1<sup>st</sup> of the year next ensuing. The Notice of Voluntary Termination must be received by the City no later than October 1<sup>st</sup> of the tax year preceding the calendar year in which the termination is to occur. As of the date so set, the tax exemption, the Annual Service Charges and the profit and dividend restrictions shall terminate. However, under no circumstances will the Entity be entitled to any refund, in whole or in part, of any funds paid to the City to obtain the tax exemption, including but not limited to the Affordable Housing Contribution. In addition, the due date for all Affordable

Housing Contributions and any other fees that the Entity agreed to pay under this Agreement, shall be accelerated so that all fees to be paid shall be due on January 1<sup>st</sup> as a condition precedent of the voluntary termination.

### **Section 12.3 Final Accounting**

Within ninety (90) days after the date of termination, whether by affirmative action of the Entity or by virtue of the provisions of the Law or pursuant to the terms of this Agreement, the Entity shall provide a final accounting and pay to the City the reserve, if any, pursuant to the provisions of N.J.S.A. 40A:20-13 and 15 as well as any remaining excess Net Profits. For purposes of rendering a final accounting the termination of the Agreement shall be deemed to be the end of the fiscal year for the Entity.

### **Section 12.4 Conventional Taxes**

Upon Termination or expiration of this Agreement, the tax exemption for the Project shall expire and the land and the Improvements thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the City.

## **ARTICLE XIII - DISPUTE RESOLUTION**

### **Section 13.1 Arbitration**

In the event of a breach of the within Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court of New Jersey by an appropriate proceeding, to settle and resolve the dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. The cost for the arbitration shall be borne by the Entity. The parties agree that the Entity may not file an action in Superior Court or with the Arbitration Association unless the Entity has first paid in full all charges defined in Section 4.8 as Material Conditions.

### **Section 13.2 Appeal of Assessment**

In calculating the amount of “staged” tax adjustments that is, taxes otherwise due, pursuant to Section 4.2 and N.J.S.A. 40A:20-12, either party may file an appeal of the conventional

assessment to determine the value of land and improvements.

#### **ARTICLE XIV - WAIVER**

##### **Section 14.1 Waiver**

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit the City's right to audit or recover any amount which the City has under law, in equity, or under any provision of this Agreement.

#### **ARTICLE XV - INDEMNIFICATION**

##### **Section 15.1 Defined**

It is understood and agreed that in the event the City shall be named as party defendant in any action by a third party alleging any breach, default or a violation of any of the provisions of this Agreement and/or the provisions of N.J.S.A. 40A:20-1 et seq., the Entity shall indemnify and hold the City harmless against any and all liability, loss, cost, expense (including reasonable attorneys' fees and costs, through trial and all stages of any appeal, including the cost of enforcing this indemnity) arising out of Agreement. In addition, the Entity expressly waives all statutory or common law defenses or legal principles which would defeat the purposes of this indemnification. The Entity also agrees to defend the suit at its own expense. However, the City maintains the right to intervene as a party thereto, to which intervention the Entity consents; the expense thereof to be borne by the City.

#### **ARTICLE XVI- NOTICE**

##### **Section 16.1 Certified Mail**

Any notice required hereunder to be sent by either party to the other shall be sent by certified or registered mail, return receipt requested.

##### **Section 16.2 Sent by City**

When sent by the City to the Entity the notice shall be addressed to:

148 First Street Urban Renewal, LLC  
148 First Street – 2<sup>nd</sup> Floor  
Jersey City, NJ 07302  
Attn: Eyal Shuster

and

Connell Foley, LLP  
Harborside Financial Center  
2510 Plaza Five  
Jersey City, NJ 07311-4029  
Attn: Charles Harrington, Esq.

unless prior to giving of notice the Entity shall have notified the City in writing otherwise.

In addition, provided the City is sent a formal written notice in accordance with this Agreement, of the name and address of Entity's Mortgagee, the City agrees to provide such Mortgagee with a copy of any notice required to be sent to the Entity.

### **Section 16.3 Sent by Entity**

When sent by the Entity to the City, it shall be addressed to:

City of Jersey City, Office of the City Clerk  
City Hall  
280 Grove Street  
Jersey City, New Jersey 07302,

with copies sent to the Corporation Counsel, the Business Administrator, and the Tax Collector unless prior to the giving of notice, the City shall have notified the Entity otherwise. The notice to the City shall identify the Project to which it relates, (i.e., the Urban Renewal Entity and the Property's Block and Lot number).

## **ARTICLE XVII-SEVERABILITY**

### **Section 17.1 Severability**

If any term, covenant or condition of this Agreement or the Application, except a Material Condition, shall be judicially declared to be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the

parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

## ARTICLE XVIII - MISCELLANEOUS

### **Section 18.1 Construction**

This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Entity and the City have combined in their review and approval of same.

### **Section 18.2 Conflicts**

The parties agree that in the event of a conflict between the Application and the language contained in the Agreement, the Agreement shall govern and prevail. In the event of conflict between the Agreement and the Law, the Law shall govern and prevail.

### **Section 18.3 Oral Representations**

There have been no oral representations made by either of the parties hereto which are not contained in this Agreement. This Agreement, the Ordinance authorizing the Agreement, and the Application constitute the entire Agreement between the parties and there shall be no modifications thereto other than by a written instrument approved and executed by both parties and delivered to each party.

### **Section 18.4 Entire Document**

This Agreement and all conditions in the Ordinance of the Municipal Council approving this Agreement are incorporated in this Agreement and made a part hereof.

### **Section 18.5 Good Faith**

In their dealings with each other, utmost good faith is required from the Entity and the City.

## ARTICLE XIX - EXHIBITS

### **Section 19 Exhibits**

The following Exhibits are attached hereto and incorporated herein as if set forth at length

herein:

1. Metes and Bounds description of the Project;
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. Good Faith Estimate of Initial Rents;
8. Project Employment and Contracting Agreement;
9. Architect's Certification of Actual Construction Costs.
10. Entity's Deed

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

**WITNESS:**

**148 FIRST STREET URBAN RENEWAL, LLC**

\_\_\_\_\_

\_\_\_\_\_

**ATTEST:**

**CITY OF JERSEY CITY**

\_\_\_\_\_  
**ROBERT BYRNE**  
**CITY CLERK**

\_\_\_\_\_  
**JOHN KELLY**  
**BUSINESS ADMINISTRATOR**

**PROJECT EMPLOYMENT & CONTRACTING AGREEMENT**

This Project Employment & Contracting Agreement is made on the \_\_\_ day of \_\_\_\_\_, 2012, between the **CITY OF JERSEY CITY** [City] and **148 FIRST STREET URBAN RENEWAL, LLC**, having its principal office at 148 First Street, 2<sup>nd</sup> Floor, Jersey City, NJ. Recipient agrees as follows:

**I. Definitions:**

The following words and terms, when used in this agreement, shall have the following meanings unless the context clearly indicates otherwise.

1. "City" means the Business Administrator of the City of Jersey City, or his designee, including any person or entity which enters into a contract with the City to implement, in whole or in part, this agreement.
2. "Construction Contract" means any agreement for the erection, repair, alteration or demolition of any building, structure, bridge, roadway, or other improvement on a Project Site.
3. "Contractor" means any party performing or offering to perform a prime contract on behalf of the Recipient.
4. "DEO" means the Division of Economic Opportunity under the Department of Administration, located at 280 Grove Street, Jersey City, NJ 07302, Telephone #(201) 547-5611. DEO is in charge of Project Employment & Contracting coordination and monitoring on projects receiving abatements.
5. "Economic Incentive" means a tax abatement or exemption for a property or project which requires approval of the Municipal Council and which reduces the annual amount of taxes otherwise due, by \$25,000 or more in the aggregate;
6. "Employment" means any job or position during the construction and operational phase of the project. It includes positions created as a result of internal promotions, terminations, or expansions within the Recipient's work force which are to be filled by new employees. However, positions filled through promotion from within the Recipient's existing work force are not covered positions under this agreement.
7. "Local Business" means a bona fide business located in Jersey City.
8. Mayor Jerramiah T. Healy's Business Cooperative Program means the group within DEO under the Department of Administration responsible for collecting local and minority business contracts and capability information. This group operates the Supplier Alert service which is to be used by the Recipient to meet their good faith business contracting and construction subcontracting goals.

9. "Minority" means a person who is African, Hispanic, Asian, or American Indian defined as follows:
  - a) "African-American" means a person having origins in any of the black racial groups of Africa.
  - b) "Hispanic" means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Latino culture or origin, regardless of race, excluding, however, persons of European origin.
  - c) "Asian" means a person having origins in any of the original people of the Far East, Southeast Asia, and subcontinent India, Hawaii or the Pacific Islands.
  - d) "American Indian" means a person having origins in any of the original people of North America who maintains cultural identification through tribal affiliation or community recognition.
10. "Minority or Woman Owned Local Business" means a bona fide business located in Jersey City which is fifty-one (51%) percent or more owned and controlled by either a Minority or woman.
11. "Non-Traditional Jobs" means jobs which are held by less than twenty (20%) percent women, as reported by the New Jersey Department of Labor, Division of Labor Market, and Demographic Research for Jersey City, which report shall be on file with the City Clerk.
12. "Permanent Jobs" mean newly created long term salaried positions, whether permanent, temporary, part time or seasonal.
13. "Project or Project Site" means the specific work location or locations specified in the contract.
14. The "Project Employment & Contracting Coordinator" is a member of the DEO staff under the Department of Administration who is in charge of coordinating Project Employment & Contracting projects. Contractors and developers engaged in projects covered by Project Employment & Contracting Agreements will direct inquiries to the Project Employment & Contracting Coordinator.
15. The "Project Employment & Contracting Monitor" or "Monitor" is a member of the DEO staff under the Department of Administration directly under the command of the Project Employment & Contracting Coordinator, who is in charge of monitoring the site, collecting the reports and documentation, and other day-to-day Project Employment & Contracting housekeeping as stipulated by this agreement.
16. The "Project Employment & Contracting Officer" or "Officer" is an employee of the Recipient who is designated by the Recipient to make sure the Recipient is in compliance with the Recipient's Project Employment & Contracting agreement.

17. "Recipient" means any individual, partnership, association, organization, corporation or other entity, whether public or private, or for profit or non-profit, or agent thereof, which receives an Economic Incentive and shall include any Contractor, Subcontractor or agent of the Recipient.
18. "The Registry" or "Jersey City Employment Registry" means a list maintained by the City or its designee of Jersey City residents seeking employment and Local Businesses, including Minority or Woman Owned Local Businesses, seeking contracts.
19. "Subcontract" means a binding legal relationship involving performance of a contract that is part of a prime contract.
20. "Subcontractor" means a third party that is engaged by the prime Contractor to perform under a subcontract all or part of the work included in an original contract.
21. "Substantial Completion" means the determination by the City that the Project, in whole or in part, is ready for the use intended, which ordinarily shall mean the date on which the Project receives, or is eligible to receive any Certificate of Occupancy for any portion of the Project.

## **II. Purpose:**

The City wishes to assure continuing employment opportunities for City residents, particularly residents who are Minorities, and business opportunities for Local Businesses, especially Minority and Women Owned Local Businesses, with employers located in or relocating to the City who are the Recipients of Economic Incentives. The City has determined to accomplish that goal by requiring the Recipient of an Economic Incentive to act in Good Faith, as defined herein, and discharge its obligations under this Agreement. To the extent mandated by State and Federal law and so long as the Entity discharges its Good Faith obligations under this agreement, the City acknowledges that the Recipient and its contractors are free to hire whomever they choose.

## **III. Good Faith Goals:**

In the event the Recipient is able to demonstrate that its work force already meets the goals set forth below or is able to meet such goals during the term of this agreement, the Recipient will not be required to comply with the interviewing or reporting obligations set forth in Section VI 1., A-L (Construction Jobs) and Section VI, 2., A-J (Permanent Jobs). All goals for Construction Jobs shall be calculated as a percentage of the total number of work hours in each trade from the beginning of the project to its completion.

1. **Employment:** The Recipient shall make a Good Faith effort to achieve the goal of a work force representing fifty-one (51%) percent City residents, fifty-one (51%) percent of whom are residents who are Minorities and, in Non-Traditional Jobs, six point nine (6.9%) percent of whom are residents who are women, it being understood that one employee may satisfy more than one category.

2. **Business Contracting:** The Recipient shall make a Good Faith effort to achieve the goal of awarding twenty (20%) percent of the dollar amount of its contracts to Local Businesses, fifty-one (51%) percent of which shall be Minority or Women Owned Local Businesses. If fifty-one (51%) percent of Minority or Women Owned Local Businesses cannot be obtained, that percentage of contracts must still be applied to local vendors.

**IV. Recipient Designee:**

The Recipient shall designate a principal officer of its firm to be responsible for administering the agreement detailed herein and to report to and confer with the City in order to discharge its Good Faith obligations as defined in this agreement. This officer should be designated as the Project Employment & Contracting Officer.

The Recipient should send a letter of introduction regarding the “Project Employment & Contracting Compliance Officer” to the Project Employment & Contracting Coordinator prior to any preconstruction meetings. An example of this letter can be found in Appendix A. This principle officer should also be present for all preconstruction meetings.

The Recipient should send a letter regarding the “Project Employment & Contracting Compliance Officer” to the employees of the Recipient’s company. An example of this letter can be found in Appendix AZ

**V. Term:**

This agreement shall be in effect for a period co-terminus with the effective period of the tax exemption [the Economic Incentive]. Thus, it will commence on the date the City Council adopted Ordinance \_\_\_\_\_ approving the tax exemption and terminate the earlier of 15 years from the date of the adoption of that Ordinance or 10 years from the date of Substantial Completion of the Project.

**VI. Good Faith Defined:**

1. **Construction Jobs:** Good Faith shall mean compliance with all of the following conditions:

A. Initial Manning Report:

- i) Prior to the commencement of their work on the Project, each Contractor /Subcontractor shall prepare an Initial Manning Report.
- ii) The Initial Manning Report should contain an estimate of the total hours in each construction trade or craft and the number of hours to be worked by City residents, including a list of the number of minority residents and women residents that will work in each trade or craft, including the work hours to be performed by such employees of any and all Contractors and Subcontractors. Attached hereto as Appendix B is the Recipient’s Initial Manning Report.

- iii) The Initial Manning Report shall be filed with the Project Employment and Contracting Monitor, who must accept said Report prior to the Recipient entering into any construction contract. An example of this acceptance letter is given in Appendix C.

B. Developer's Contracting Obligations

- i) Once the developer submits the project's initial manning report, he/she must forward a letter with requests for quotation or bid to Mayor Jerramiah T. Healy's Business Cooperative Program for local and minority vendors for any construction or building operating goods, services and sub-contracting opportunities. An example of this letter is given in Appendix D.
- ii) The developer shall make a good faith effort to contact those businesses and individuals who submit bids. This effort must be documented by letter, which will be sent to Mayor Jerramiah T. Healy's Business Cooperative Program at DEO under the Department of Administration. An example of this letter can be found in Appendix D2.

C. Contractor's/Subcontractor's Compliance Statement

Prior to commencement of their work on the Project, each Contractor or Subcontractor must agree in writing to comply with this agreement and the employment goals elaborated herein. An example of this Compliance Statement can be found in Appendix E.

D. Union Statement of Using Its Best Efforts

- i) Prior to commencement of their work on the Project, the contractor/subcontractor must submit a statement expressing its adherence to the Project Employment & Contracting Agreement to each union with which he/she has a collective bargaining agreement covering workers to be employed on the project.
- ii) The Compliance Statement shall include a union statement for the particular union to sign, which claims the union will use its best efforts to comply with the employment goals articulated in the Project Employment & Contracting agreement. This compliance statement is detailed in Appendix F. A copy of the signed compliance statement must be sent to the Project Employment & Contracting Monitor in DEO under the Department of Administration before work starts in order for a developer to be in compliance.
- iii) The Recipient will require the Contractor or Subcontractor to promptly notify the City of any refusal or failure of a union to sign the statement. If a particular union refuses to sign a statement, the Recipient will document its efforts to obtain such statement and the reasons given by the union for not signing such statement, and submit such documentation to the Project Employment & Contracting Monitor in DEO under the Department of Administration.

E. Sub-Contractors

The developer shall require that each prime contractor be responsible for the compliance of his/her subcontractors with the aforementioned Project Employment & Contracting requirements during the performance of the contract. Whenever the contractor sub-contracts a portion of the work on the project, the contractor shall bind the subcontractor to the obligations contained in these supplemental conditions to the full extent as if he/she were the contractor.

F. Union Apprentices

The contractor is responsible for assuring that resident and minority apprentices account for at least fifty (50%) percent of the total hours worked by union apprentices on the job in each trade listed in which apprentices are employed, according to the apprentice-to-journey-worker ratio contained in the collective bargaining agreement between the various unions, and shall hold each of his/her subcontractors to this requirement. The Recipient will require the contractor or subcontractor to promptly notify the City of any refusal of a union to utilize resident and minority apprentices.

G. Monthly Manning Report

- i) The Recipient will cause the Contractor to complete and submit Monthly Project Manning Reports to the Project Employment & Contracting Monitor in DEO under the Department of Administration by the seventh day of the month following the month during which the work is performed, for the duration of the contract.
- ii) The report will accurately reflect the total hours in each construction trade or craft and the number of hours worked by City residents, including a list of the number of minority resident and women resident workers in each trade or craft, and will list separately the work hours performed by such employees of the Contractor and each of its Subcontractors during the previous month. The Monthly Manning Report shall be in the form attached hereto as Appendix G.
- iii) The Recipient is responsible for maintaining or causing the Contractor to maintain records supporting the reported work hours of its Contractors or Subcontractors.

H. Monthly Certified Payroll Report

- i) The Recipient will cause the Contractor to furnish the Project Employment & Contracting Monitor with copies of its weekly Certified Payroll reports. The reports will specify the residence, gender and ethnic/racial origin of each worker, work hours and rate of pay and benefits provided. The Certified Payroll report shall be in the form attached hereto as Appendix H.
- ii) Payroll reports must be submitted on a monthly basis with the Monthly Manning Report or the Recipient is no longer in compliance.

I. Equal Employment Opportunity Reports

Prior to commencement of work on the Project, the Recipient will request copies of the most recent Local Union Report (EEO-3) and Apprenticeship Information Report (EEO-2) which are required to be filed with the US Commission of Equal Employment Opportunity Commission by the collective bargaining unit. These reports will be forwarded to the Project Employment & Contracting Monitor within one month of the signing of the Project Employment & Contracting Agreement.

J. Other Reports

In addition to the above reports, the Recipient shall furnish such reports or other documents to the City as the City may request from time to time in order to carry out the purposes of this agreement.

K. Records Access

The Recipient will insure that the City will have reasonable access to all records and files reasonably necessary to confirm the accuracy of the information provided in the reports.

L. Work Site Access For Monitor

- i) The City will physically monitor the work sites subject to this agreement to verify the accuracy of the monthly reports. Each work site will be physically monitored approximately once every two weeks, and more frequently if it is deemed reasonably necessary by the City. The City's findings shall be recorded in a "Site Visit Report." An example of a bi-weekly site visit report can be found in Appendix I.
- ii) The Recipient shall require the Contractor and Sub-contractor to cooperate with the City's site monitoring activities and inform the City as to the dates they are working at the Project site. This includes specifically instructing the on-site construction manager about the monitoring process, and informing him/her that the monitor will contact him/her to set up an initial meeting. In the case of projects with multiple locations, the Recipient shall inform the City of the dates they are working at each site location(s) where they are working, in order to facilitate the monitoring.

2. **Permanent Jobs:** Good Faith shall mean compliance with all of the following conditions:

A. Pre-hiring Job Awareness: At least eight (8) months prior to the hiring of a Recipient's permanent workforce, the Project Employment & Contracting officer for the Recipient will sit down with the head of the Registry to discuss how the Recipient plans to hire its permanent workforce. The following issues should be covered in this meeting:

- i) whether subcontractors will be used in the hiring process.
- ii) the specific types of jobs that need to be filled.
- iii) the qualifications needed for these particular jobs.
- iv) possible training programs offered by the permanent employer.

- v) the Recipient's goals and how it plans to meet these goals.
- vi) any other issues which need to be addressed by the Registry.

1. Subcontractor Notification -- If the Recipient decides to subcontract any portion or all of its permanent workforce, then the Recipient must receive a signed acknowledgment from the subcontracting party that it will abide by the Project Employment & Contracting Agreement before said subcontractor begins staffing permanent employees. The Recipient must forward a copy of the signed acknowledgment to the Project Employment & Contracting Monitor. An example of this signed acknowledgment can be found in Appendix E.

2. Subcontractor Pre-Hiring Job Awareness Meeting -- Each subcontractor hired to staff permanent job positions must appoint a Project Employment & Contracting Officer to meet with the head of the Registry to discuss the same issues presented above in VI 2.A(I-vi).

3. Subcontractors of Subcontractors--Subcontractors of subcontractors are subject to the same requirements for the initial subcontractors above in Section VI 2.A.

B. Documentation of Hiring Plan--Once the Pre-Hiring Job Awareness Meeting has taken place, the Recipient must put together a document with goals and totals for future permanent employment needs. This plan should summarize all that was discussed in the Pre-Hiring Awareness Meeting, list estimates for manpower needs, set residential and minority employment goals commensurate with the Project Employment & Contracting Agreement, and show how the Recipient plans to meet these goals. An example of this plan is found in Appendix J.

C. Pre-Hiring Notification: At least ten (10) working days prior to advertising for any employees, the Recipient or the Recipient's subcontractor shall provide the Registry with a written notice, which shall state the job title, job description and minimum qualifications, rate of pay, hours of work and the hiring date for each position to be filled, in qualitative and objective terms which will enable the Registry to refer qualified applicants to the Recipient.

D. Advertisement: At the request of the City, or because the City does not have qualified applicants to refer to the Recipient, the Recipient will place an advertisement for the jobs in a newspaper which is regularly published in Jersey City. The Recipient must furnish the Project Employment & Contracting Coordinator in DEO under the Department of Administration with a copy of this advertisement.

E. Pre-Hiring Interview: The Recipient shall interview any qualified applicants referred to it from the Registry, to be maintained by the City or its designee. In the event advertisement is required, the Recipient agrees to interview any qualified persons responding to the advertisement.

F. Semi-Annual Employment Reports: The Recipient will submit written semi-annual employment reports to the Project Employment & Contracting Monitor in the form to be provided by the City. The report will describe the job, whether the job is held by a City resident, minority resident or woman resident. The report will explain in writing the reasons why any qualified applicant referred by the Registry (or in the event advertisement is required, any qualified person responding to the advertisement) was not hired. An example of this report is found in Appendix K.

G. Record Access: The Recipient shall provide the City with reasonable access to all files and records including payroll and personnel information reasonably necessary to confirm the accuracy of the information set forth in the semi-annual reports.

H. Work Place Access: The Recipient shall provide the City with reasonable access to the site to physically monitor the work site to verify the accuracy of the information set forth in the semi-annual reports.

I. Other Reports, Documents: In addition to the above reports, the Recipient shall furnish such reports or other documents that the City may request from time to time in order to implement the purposes of this agreement.

J. Incorporation of Agreement: The Recipient shall incorporate the provisions of this Agreement in all contracts, agreements and purchase orders for labor with any service, maintenance, security or management agent or Contractor engaged by the Recipient whose personnel will be assigned to the Recipient project.

### 3. Business Contracting

Good Faith shall mean compliance with all of the following conditions:

1) Solicitation of Businesses:

a) One month before accepting bids for goods and services, the Recipient must forward a letter with requests for quotation or bid to Mayor Jerramiah T. Healy's Business Cooperative Program for local and local minority vendors for any construction or building operating goods, services and subcontracting opportunities. An example of this letter can be found in Appendix D.

b) After submission of bids, the Recipient will document whether the bid was accepted or rejected, and state the reason why. An example of this documentation can be found in Appendix D2.

i) Semi-Annual Purchasing Reports: The Recipient will submit written semi-annual purchasing reports which will include a list of all contracts awarded over a six month period and the dollar amounts of these contracts. The reports will specify the number and dollar amount of contracts awarded to Local Businesses and Minority or Women Owned Local Businesses. An example of these reports can be found in Appendix L.

ii) No Utilization of Local and Local Minority Vendors As Conduits For Vendors That Are Not Local Or Minority Owned:

The Recipient pledges not to use local and local minority vendors solely as conduits for vendors that are not local and minority owned. Any discovery by DEO under the Department of Administration of a Recipient, either knowingly or unknowingly, using the masthead of a local or minority owned

business as a way to get credit for local or minority employment when it should not, will immediately subject the Recipient to the penalties listed in Section VIII (d) below.

**4. Summation of Documentation Needed For Compliance with Agreement**

1. Letter Designating Project Employment & Contracting Officer (Appendix A)
2. Letter designating Project employment & Contracting Officer to Recipient's Employees (App.) AZ
3. Example of Initial Manning Report (Appendix B)
4. Letter Of Acceptance of Initial Manning Report (Appendix C)
5. Letter From Developer Forwarding Requests for Quotation or Bid for Minority and Residential Vendors from Mayor Jerramiah T. Healy's Business Cooperative Program (Appendix D)
6. Documentation of Bid Submission (Appendix D2)
7. Letter Expressing Project Employment & Contracting Obligations to Contractors/ Subcontractors (Appendix E)
8. Union Statement of Best Efforts (Appendix F)
9. Example of Monthly Manning Report (Appendix G)
10. Example of Monthly Certified Payroll Report (Appendix H)
11. Example of Bi-Weekly Site Visit Report (Appendix I)
12. Example of Documentation of Hiring Plan (Appendix J)
13. Example of Semi-Annual Employment Report (Appendix K)
14. Example of Semi-Annual Purchasing Report (Appendix L)

**VII. Notices of Violation:**

1. Advisory Notice: The City will issue a written Advisory Notice to the Recipient if there is non-compliance with a Good Faith requirement as defined in this agreement. The Advisory Notice shall explain in sufficient detail the basis of the alleged violation. The Recipient shall have four (4) working days to correct the violation. An example of an Advisory Notice can be found in Appendix M.
2. Violation Notice: If the alleged violation set forth in the Advisory Notice has not been corrected to the satisfaction of the City within four (4) working days, the City shall then issue a Violation Notice to the Recipient. The Violation Notice shall explain in sufficient detail the basis of the alleged, continuing violation. The Recipient will have three (3) working days to correct the violation. An example of a Violation Notice can be found in Appendix N.
3. Correcting the Violation: Either or both the Advisory Notice or the Violation Notice may be considered corrected if the Recipient satisfies the requirements of this agreement and so advises the City in writing, subject to confirmation by the City.
4. Extension of Time to Correction: Either the Advisory Notice or the Violation Notice may be held in abeyance and the time for correction extended if the Recipient enters into satisfactory written agreement with the City for corrective action which is designed to achieve compliance. If Recipient fails to abide by the terms of such agreement the violation

will be considered not corrected.

5. Meetings Concerning Violations: The City may provide an opportunity for a meeting with the Recipient, his Contractors or Subcontractors in an effort to achieve compliance; or may respond to Recipient's request for a meeting after the Recipient has made timely submission of a written explanation pursuant to the above. The meeting shall be requested no later than two days after the alleged violator has submitted the written explanation.
6. Interviews Relating to Violations: The City may conduct interviews and may request additional information from appropriate parties as is considered necessary to determine whether the alleged violation has occurred.
7. Determination of Violation: The City shall issue a determination of whether the Recipient is in violation of this agreement as soon as possible but not later than thirty days after the delivery of the Violation Notice to the Recipient. If the City determines that the Recipient is in violation, the City shall be entitled to the liquidated damages provided below.

#### **VIII. Liquidated Damages/Interest:**

While reserving any other remedies the City may have at law or equity for a material breach of the above terms and conditions, the parties agree that damages for violations of this agreement by the Recipient cannot be calculated within any reasonable degree of mathematical certainty. Therefore, the parties agree that upon the occurrence of a material breach of any of the above terms and conditions and after notice and expiration of any period to correct the violation, the City will be entitled to liquidated damages from the Recipient in the following amounts:

- a) failure to file Initial Manning Reports (Construction Jobs) or Pre-Hiring Notification (Permanent Jobs) or Pre-Contracting Notification (Business Contracting): an amount equal to a Five (5%) percent increase in the estimated annual payment in lieu of taxes;
- b) failure to conduct Pre-hiring Interviews or submit Compliance Statement (Construction Jobs) or Solicit Bids (Business Contracting): an amount equal to Three (3%) percent increase in the estimated annual payment in lieu of taxes;
- c) failure to allow record or work place access or submit any other required reports (all categories): an amount equal to Two (2%) percent increase in the estimated annual payment in lieu of taxes.
- d) the use of the local or local minority business' masthead for labor or work supplied by a non local or local minority vendor: An amount equal to Five (5%) percent increase in the estimated annual payment in lieu of taxes. Interest shall be charged on any damages at the legal rate of interest as calculated by the Tax Collector.
- e) the late payment of any liquidated sum shall accrue interest at the rate of 8%.

**IX. Commercial Tenants at the Project Site:**

1. The Recipient shall send all tenants of commercial space within the Project Site a letter and a Tenant Employment Services Guide in the form attached as Appendix O.
2. The Recipient shall solicit information from tenants of commercial space about the composition of the work force of each tenant. The information solicited will be submitted to the Project Employment & Contracting Monitor, which shall provide the Recipient with a questionnaire in the form attached as Appendix P.
3. The Recipient will send the results of its solicitation to the Project Employment & Contracting Monitor no later than October 31 of each year.
4. The Recipient shall send all tenants of commercial space within the Project Site a Supplier Alert Service Registration Package in the form attached as Appendix Q.

**X. Notices**

Any notice required hereunder to be sent by either party to the other, shall be sent by certified mail, return receipt requested, addressed as follows:

1. When sent by the City to the Recipient it shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. When sent by the Recipient to the City, it shall be addressed to:

Project Employment & Contracting Monitor  
Department of Administration  
Division of Economic Opportunity  
280 Grove Street – 1<sup>st</sup> Floor  
Jersey City, New Jersey 07302

with separate copies to the Mayor and the Business Administrator; unless prior to giving of such notice, the City or the Recipient shall have notified the other in writing.

**XI. Adoption, Approval, Modification:**

This agreement shall take effect on the date that the Economic Incentive is approved by the

Municipal Council.

**XII. Controlling Regulations and Laws:**

To the extent required by State and Federal Law and so long as the Entity discharges its Good Faith obligations under this agreement, the City agrees and acknowledges that the Recipient and its contractors are free to hire whomever they choose. If this agreement conflicts with any collective bargaining agreement, the City agrees to defer to such agreements so long as the Recipient provides the City with a copy of the offending provision in the collective bargaining agreement.

**ATTEST:**

**CITY OF JERSEY CITY**

\_\_\_\_\_  
**Robert Byrne**  
**City Clerk**

\_\_\_\_\_  
**John Kelly**  
**Business Administrator**

**WITNESS:**

**148 FIRST STREET URBAN RENEWAL, LLC**

\_\_\_\_\_  
**Secretary**

\_\_\_\_\_  
**President**

City Clerk File No. Ord. 12-145

Agenda No. 3.F 1st Reading

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



## ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-145

**TITLE: ORDINANCE AUTHORIZING THE ASSIGNMENT NUNC PRO TUNC OF THE FINANCIAL AGREEMENT FROM THE CRITERION URBAN RENEWAL COMPANY, LLC, TO BR CRITERION URBAN RENEWAL COMPANY, LLC**

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

**WHEREAS**, on or about November 30, 2005, The Criterion Urban Renewal Company, LLC [Original Entity], applied for a Long Term Tax Exemption under N.J.S.A. 40A:20-1 et seq., for land and improvements located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, known on the City's Tax Map as Block 15303, Lot 12 (formerly known as Block 1915, Lot 25), and more commonly known by the street address of 100 Clifton Place [Property]; and

**WHEREAS**, The Criterion Urban Renewal Company, LLC, was to have substantially rehabilitated, restored and constructed a residential building, to contain approximately 156 market rate residential condominium units [Project]; and

**WHEREAS**, by adoption of Ordinance 06-156 on December 13, 2006, the City of Jersey City [City] approved a long term tax exemption with a service charge equal to twelve percent (12%) of the Annual Gross Revenue with a term of the earlier of thirty-five (35) years from adoption of the ordinance or thirty (30) years from substantial completion of the Project; and

**WHEREAS**, on January 3, 2007, the City executed a financial agreement with The Criterion Urban Renewal Company, LLC, for the Project [Financial Agreement]; and

**WHEREAS**, The Criterion Urban Renewal Company, LLC, did not pay the Affordable Housing contribution, which was \$234,000; and

**WHEREAS**, on or about December 29, 2011, The Criterion Urban Renewal Company, LLC, transferred the property to BR Criterion Urban Renewal Company, LLC [the New Entity]; and

**WHEREAS**, on August 2, 2012, The Criterion Urban Renewal Company, LLC, filed an application to obtain the City's approval nunc pro tunc to assign the tax abatement to BR Criterion Urban Renewal Company, LLC; and

**WHEREAS**, BR Criterion Urban Renewal Company, LLC, is 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. [the New Entity]; and

**WHEREAS**, on August 10, 2012 the Tax Exemption Committee recommended the approval of the assignment to the Mayor; and

**WHEREAS**, pursuant to Section 9.1 of the Financial Agreement, the City is required to consent to the assignment so long as 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 Original Entity is not then in default of this Agreement or the Law; 4) the Original Entity's obligations under this Agreement are fully assumed by the New Entity; and

**WHEREAS**, both The Criterion Urban Renewal Company, LLC, and BR Criterion Urban Renewal Company, LLC, have complied with the terms of Section 9.1 of the Financial Agreement; and

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ORDINANCE AUTHORIZING THE ASSIGNMENT NUNC PRO TUNC OF THE FINANCIAL AGREEMENT FROM THE CRITERION URBAN RENEWAL COMPANY, LLC, TO BR CRITERION URBAN RENEWAL COMPANY, LLC

WHEREAS, the City will receive a transfer fee of 2% of the estimated Annual Service Charge, or \$8,115, the maximum transfer fee permitted under N.J.S.A. 40A:20-10(d); and

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

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

A. The application of The Criterion Urban Renewal Company, LLC, to assign the tax exemption and financial agreement to BR Criterion Urban Renewal Company, LLC, an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. a copy of which is on file in the office of the City Clerk, for the project designated as Block 15303, Lot 12 (formerly known as Block 1915, Lot 25), on the City's Official Tax map, more commonly known by the street address of 100 Clifton Place, more specifically described by metes and bounds in the application, is hereby approved, nunc pro tunc, as of December 29, 2011, provided that BR Criterion Urban Renewal Company, LLC, pays the full amount of the Affordable Housing Trust Fund contribution or \$234,000 *the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased.*

B. The Mayor or Business Administrator is hereby authorized to acknowledge or approve an assignment and assumption agreement of the tax exemption and financial agreement between the parties.

C. The City Clerk shall deliver a certified copy of the Ordinance and the Consent and Assignment and Assumption Agreement to the Tax Assessor and Director of the Division of Local Government Services.

D. The application is on file with the office of the City Clerk. The Consent and Assignment and Assumption Agreement shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.

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

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

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

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

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

JM/he  
10/16/12

APPROVED AS TO LEGAL FORM  
  
\_\_\_\_\_  
Corporation Counsel

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

Certification Required   
Not Required

City Clerk File No. Ord. 12-146

Agenda No. 3.6 1st Reading

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



## ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-146

**TITLE: ORDINANCE AUTHORIZING THE ASSIGNMENT NUNC PRO TUNC OF THE FINANCIAL AGREEMENT FROM THE HAGUE URBAN RENEWAL COMPANY, LLC, TO BR HAGUE URBAN RENEWAL COMPANY, LLC**

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

**WHEREAS**, on or about November 30, 2005, The Hague Urban Renewal Company, LLC [the Original Entity], applied for a Long Term Tax Exemption under N.J.S.A. 40A:20-1 et seq., for land and improvements located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, known on the City's Tax Map as Block 15303, Lot 11 (formerly known as Block 1915, Lot 24), and more commonly known by the street address of 88 Clifton Place [Property]; and

**WHEREAS**, The Hague Urban Renewal Company, LLC, was to have substantially rehabilitated, restored and constructed a residential building, to contain approximately 149 market rate residential condominium units [Project]; and

**WHEREAS**, by adoption of Ordinance 06-157 on December 13, 2006, the City of Jersey City [City] approved a long term tax exemption with a service charge equal to twelve percent (12%) of the Annual Gross Revenue with a term of the earlier of thirty-five (35) years from adoption of the ordinance or thirty (30) years from substantial completion of the Project; and

**WHEREAS**, on January 3, 2007, the City executed a financial agreement with The Hague Urban Renewal Company, LLC, for the Project [Financial Agreement]; and

**WHEREAS**, The Hague Urban Renewal Company, LLC, did not pay the Affordable Housing contribution, which was \$223,500; and

**WHEREAS**, on or about December 29, 2011, The Hague Urban Renewal Company, LLC, transferred the property to BR Hague Urban Renewal Company, LLC [the New Entity]; and

**WHEREAS**, on August 2, 2012, The Hague Urban Renewal Company, LLC, filed an application to obtain the City's approval nunc pro tunc to amend the tax abatement and assign it to BR Hague Urban Renewal Company, LLC; and

**WHEREAS**, BR Hague Urban Renewal Company, 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. [the New Entity]; and

**WHEREAS**, on August 10, 2012 the Tax Exemption Committee recommended the approval of the assignment to the Mayor; and

**WHEREAS**, pursuant to Section 9.1 of the Financial Agreement, the City is required to consent to the assignment so long as 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 Original Entity is not then in default of this Agreement or the Law; 4) the Original Entity's obligations under this Agreement are fully assumed by the New Entity; and

**WHEREAS**, both The Criterion Urban Renewal Company, LLC, and BR Criterion Urban Renewal Company, LLC, have complied with the terms of Section 9.1 of the Financial Agreement; and

**ORDINANCE AUTHORIZING THE ASSIGNMENT NUNC PRO TUNC OF THE FINANCIAL AGREEMENT FROM THE HAGUE URBAN RENEWAL COMPANY, LLC, TO BR HAGUE URBAN RENEWAL COMPANY, LLC**

**WHEREAS**, the City will receive a transfer fee of 2% of the estimated Annual Service Charge, or \$6,898, the maximum transfer fee permitted under N.J.S.A. 40A:20-10(d); and

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

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

A. The application of The Hague Urban Renewal Company, LLC, to assign the tax exemption and financial agreement to BR Hague Urban Renewal Company, LLC, an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., a copy of which is on file in the office of the City Clerk, for designated as Block 15303, Lot 11 (formerly known as Block 1915, Lot 24), on the City's Official Tax map, more commonly known by the street address of 88 Clifton Place, more specifically described by metes and bounds in the application, is hereby approved, nunc pro tunc, as of December 29, 2011, provided that BR Hague Urban Renewal Company, LLC, pays the full amount of the Affordable Housing Trust Fund contribution or \$223,500 *the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased.*

B. The Mayor or Business Administrator is hereby authorized to acknowledge or approve an assignment and assumption agreement of the tax exemption and financial agreement between the parties.

C. The City Clerk shall deliver a certified copy of the Ordinance and the Consent and Assignment and Assumption Agreement to the Tax Assessor and Director of the Division of Local Government Services.

D. The application is on file with the office of the City Clerk. The Consent and Assignment and Assumption Agreement shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.

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

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

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

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

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

*JM/he*  
10/16/12

~~APPROVED AS TO LEGAL FORM~~

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

APPROVED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

*J. M. He*  
Business Administrator

Certification Required

Not Required

City Clerk File No. Ord. 12-147

Agenda No. 3.H 1st Reading

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



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 12-147

**TITLE: ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR BEACON COMMERCE URBAN RENEWAL COMPANY, LLC, FOR A COMMERCIAL PARKING GARAGE PROJECT; 2) ASSIGNING THE AFFORDABLE HOUSING CONTRIBUTION CREDITS DUE THE BEACON COMMERCE URBAN RENEWAL COMPANY, LLC, UNDER ITS FINANCIAL AGREEMENT, TO BR BEACON COMMERCE URBAN RENEWAL COMPANY, LLC; AND 3) REPEALING ORDINANCE 05-093**

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

**WHEREAS**, The Beacon Commerce Urban Renewal Company, L.L.C., is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 14 (formerly known as Block 1899, Lot 30), on the City's Official Tax map, more commonly known by the street address of 32 Beacon Place, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5; and

**WHEREAS**, by the adoption of Ordinance 05-093, the City of Jersey City approved a 30 year long term tax exemption to substantially rehabilitate, restore and construct a commercial parking garage containing approximately 64,851 square feet [Project] paying a service charge equal to 10% of annual gross revenue or approximately \$120,623 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the amount of \$120,623, to be credited against future service charge over four years; and

**WHEREAS**, on August 30, 2005 the Financial Agreement was executed; and

**WHEREAS**, the Original Entity paid the sum of \$32,425 of the \$97,277 owed to the City its Affordable Housing contribution; and

**WHEREAS**, BR Beacon Commerce Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR BEACON COMMERCE URBAN RENEWAL COMPANY, LLC, FOR A COMMERCIAL PARKING GARAGE PROJECT; 2) ASSIGNING THE AFFORDABLE HOUSING CONTRIBUTION CREDITS DUE THE BEACON COMMERCE URBAN RENEWAL COMPANY, LLC, UNDER ITS FINANCIAL AGREEMENT, TO BR BEACON COMMERCE URBAN RENEWAL COMPANY, LLC; AND 3) REPEALING ORDINANCE 05-093**

**WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption for the 66,000 square foot parking garage Project to contain approximately 125 parking spaces, to: reduce the original term of the tax exemption from 30 to 15 years, re-set the term and increase the service charge for the last five (5) years only, from 10% to 12%; and

**WHEREAS**, under the new tax exemption, the service charge would be approximately \$24,938 for the first ten years and \$38,302 for the final five years; and

**WHEREAS**, the New Entity has agreed to:

1. pay the greater of (i) the Minimum Annual Service Charge or (ii) 10% of Annual Gross Revenue or \$24,938 for the first ten (10) years; and 12% of Annual Gross Revenue or \$38,302 for the last five (5) years, and which shall be subject to statutory staged increases over the term of the tax exemption;
2. pay an annual sum equal to 2% of each prior year's Annual Service Charge as an Administrative Fee;
3. provide employment and other economic opportunities for City residents and businesses;
4. pay to City for remittance to Hudson County, an amount equal to 5% of the Annual Service Charge upon receipt of that charge;
5. pay the sum of \$66,575, which is the balance due to the City's Affordable Housing Trust Fund, which amount will be paid in full upon *the issuance of the Temporary Certificate of Occupancy for the building.*

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

1. the current real estate taxes generate less revenue than the estimated Annual Service Charge of \$24,938 to the City and an additional sum equal to 5% of the Annual Service Charge to Hudson County;
2. it is expected that the Project will create approximately 18 jobs during construction and 3 new permanent jobs;
3. the New Project will stabilize and contribute to the economic growth of businesses in the surrounding area;
4. the New Project will further the overall redevelopment objectives of the Medical Center Study Area Redevelopment Plan;
5. the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

1. the relative stability and predictability of the Annual Service Charges will make the Project more attractive to investors needed to finance the Project;

ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR BEACON COMMERCE URBAN RENEWAL COMPANY, LLC, FOR A COMMERCIAL PARKING GARAGE PROJECT; 2) ASSIGNING THE AFFORDABLE HOUSING CONTRIBUTION CREDITS DUE THE BEACON COMMERCE URBAN RENEWAL COMPANY, LLC, UNDER ITS FINANCIAL AGREEMENT, TO BR BEACON COMMERCE URBAN RENEWAL COMPANY, LLC; AND 3) REPEALING ORDINANCE 05-093

- 2. the relative stability and predictability of the Annual Service Charges will allow the owner to stabilize its operating budget, allowing a high level of maintenance to the building over the life of the Project, which will attract purchasers to the Project and insure the likelihood of the success of the Project; and

**WHEREAS**, BR Beacon Commerce Urban Renewal Company, LLC, has initially complied with Executive Order 2002-005 concerning "Disclosure of Lobbyist Representative Status" by filing an appropriate letter in the Office of the City Clerk; and

**WHEREAS**, at its meeting of August 10, 2012, the Tax Abatement Committee voted in favor of the approval of the New Entity's application for tax exemption.

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

A. The application of The Beacon Commerce Urban Renewal Company, L.L.C., an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., a copy of which is on file in the office of the City Clerk, for Block 13601, Lot 14 (formerly known as Block 1899, Lot 30), to assign its Affordable Housing contribution partial credits to BR Beacon Commerce Urban Renewal Company, LLC, is hereby approved.

B. The application of BR Beacon Commerce Urban Renewal Company, 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., for a new tax exemption, is hereby approved.

C. The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement and a Project Employment and Contracting Agreement. The Financial Agreement shall include at a minimum the following terms and conditions:

- 1. Term: the earlier of 20 years from the adoption of the within Ordinance or 15 years from the date the project is Substantially Complete;
- 2. Annual Service Charge: each year the greater of:
  - (a) the Minimum Annual Service Charge or;
  - (b) 10% of Annual Gross Revenue or \$24,938 for the first ten (10) years; 12% of Annual Gross Revenue or \$38,302 for the last five (5) years, all of which shall be subject to statutory increases during the term of the tax exemption.
- 3. Administrative Fee: 2% of the prior year's Annual Service Charge;
- 4. County Payment: an additional 5% of the Annual Service Charge for remittance upon receipt to Hudson County;
- 5. Affordable Housing Trust Fund: \$1.50 per square foot for a total of \$99,000, of which the City acknowledges a partial payment of the sum of \$32,425. The balance due of \$66,575 will be paid in full upon *the issuance of the Temporary Certificate of Occupancy for the building*;
- 6. Project: substantially rehabilitate, restore and construct a building to be developed as a 66,000 square foot parking garage to contain approximately 125 parking spaces;

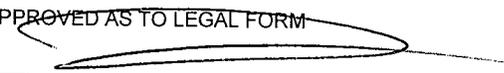
ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR BEACON COMMERCE URBAN RENEWAL COMPANY, LLC, FOR A COMMERCIAL PARKING GARAGE PROJECT; 2) ASSIGNING THE AFFORDABLE HOUSING CONTRIBUTION CREDITS DUE THE BEACON COMMERCE URBAN RENEWAL COMPANY, LLC, UNDER ITS FINANCIAL AGREEMENT, TO BR BEACON COMMERCE URBAN RENEWAL COMPANY, LLC; AND 3) REPEALING ORDINANCE 05-093

- 7. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses.
- D. The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Tax Assessor and Director of the Division of Local Government Services.
- E. The application is on file with the office of the City Clerk. The Financial Agreement and Project Employment and Contracting Agreement shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.
- F. All ordinances, specifically Ordinance 05-093, and parts of ordinances inconsistent herewith are hereby repealed.
- G. 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.
- H. This ordinance shall take effect at the time and in the manner provided by law.
- I. 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*  
10-16-12

APPROVED AS TO LEGAL FORM

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

APPROVED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

  
\_\_\_\_\_  
Business Administrator

Certification Required   
Not Required

Rev.10-17-12  
Long Term Tax Exemption  
N.J.S.A. 40A:20-1, et seq.  
(Commercial or Industrial Rental)

Re: 32 Beacon Place  
Block 13601, Lot 14  
The Beacon Redevelopment Plan

**PREAMBLE**

**THIS FINANCIAL AGREEMENT**, [Agreement] is made the \_\_\_\_\_ day of \_\_, 20\_\_ by and between **BR BEACON COMMERCE URBAN RENEWAL COMPANY, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at c/o Beacon Redevelopment, LLC, 4 Beacon Way, #16, Jersey City, NJ 07304 [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 Beacon Commerce Urban Renewal Company, LLC, is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 14 (formerly known as Block 1899, Lot 30), on the City's Official Tax map, more commonly known by the street address of 32 Beacon Place, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, by the adoption of Ordinance 05-093, the City of Jersey City approved a 30 year long term tax exemption to substantially rehabilitate, restore and construct a commercial parking garage containing approximately 64,851 square feet [Project] paying a service charge equal to 10% of annual gross revenue or approximately \$120,623 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the

amount of \$120,623, to be credited against future service charge over four years; and

**WHEREAS**, on August 30, 2005 the Financial Agreement was executed; and

**WHEREAS**, the Original Entity paid the sum of \$32,425 of the \$97,277 owed to the City as its Affordable Housing contribution; and

**WHEREAS**, BR Beacon Commerce Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, the New Entity is the Owner pursuant to Deed dated December 29, 2011, of certain property designated as Block 13601, Lot 14, more commonly known by the street address of 32 Beacon Place, Jersey City, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g).; and

**WHEREAS**, the New Entity plans to construct a building with approximately sixty six thousand (66,000) square feet parking garage Project to contain approximately one hundred twenty five (125) parking spaces; [Project]; and

**WHEREAS**, on \_\_\_\_\_ the Project received site plan approval from the Planning Board; and

**WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption for the 66,000 square foot parking garage Project to contain approximately 125 parking spaces, to: reduce the original term of the tax exemption from 30 to 15 years, re-set the term and increase the service charge for the last five (5) years only, from 10% to 12%; and

**WHEREAS**, under the new tax exemption, the service charge would be approximately \$24,938 for the first ten years and \$38,302 for the final five years; and

**WHEREAS**, by the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_, the Municipal Council approved a long term tax exemption for the Project and authorized the execution of a

Financial Agreement; and

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

- A. Relative Benefits of the Project when compared to the costs:
1. the current real estate tax generates revenue of only \$14,709.79, whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately 10% of Annual Gross Revenue or \$24,938 for the first ten (10) years; and 12% of Annual Gross Revenue or \$38,302 for the last five (5) years;
  2. the New Entity will pay the City the sum of \$66,575, as an affordable housing contribution pursuant to Ordinance 03-112, which is the balance due to the City's Affordable Housing Trust Fund, which amount will be paid in full upon execution of the new agreement;
  3. it is expected that the Project will create approximately 18 new construction jobs and 3 new permanent full time jobs;
  4. the project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants;
  5. the Project will further the redevelopment objectives of The Beacon Redevelopment Plan Area, which include remediation or development of vacant property;
  6. the City's Impact Analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and
- B. Assessment of the Importance of the Tax Exemption in obtaining development of the project and influencing the locational decisions of probable occupants:
1. the relative stability and predictability of the annual service charges will make the Project more attractive to investors and lenders needed to finance the Project; and
  2. the relative stability and predictability of the service charges will allow the owner to stabilize its operating budget, allowing a high level of maintenance to the building over the life of the Project, which will attract occupants to the Project, insure the likelihood of stabilized rents to tenants and the success of the Project; and
  3. have a positive impact on the surrounding area.

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

**ARTICLE I - GENERAL PROVISIONS**

**Section 1.1 Governing Law**

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

**Section 1.2 General Definitions**

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

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

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

iii. Annual Gross Revenue Any and all revenue derived from or generated by the Project of whatever kind or amount, whether received as rent from any tenants or income or fees from third parties, including but not limited to fees or income paid or received for parking, or as user fees or for any other services. No deductions will be allowed for operating or maintenance costs, including,

but not limited to gas, electric, water and sewer, other utilities, garbage removal and insurance charges, whether paid for by the landlord, tenant or a third party.

iv. Annual Service Charge - The amount The New Entity has agreed to pay the City each year for municipal services supplied to the Project, which sum is in lieu of any taxes on the Improvements, pursuant to N.J.S.A. 40A:20-12. It shall include a payment for all annual excess profit.

v. Auditor's Report - A complete annual financial statement outlining the financial status of the Project, which shall also include a certification of Total Project Cost and clear computation of the annual Net Profit. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles and shall contain at a minimum the following: a balance sheet, a statement of income, a statement of retained earnings or changes in stockholders' equity, a statement of cash flows, descriptions of accounting policies, notes to financial statements and appropriate schedules and explanatory material results of operations, cash flows and any other items required by Law. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

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

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

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

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

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

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

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

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

xiv. Law - Law shall refer to the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1, et seq.; Executive Order of the Mayor 02-003, relating to long term tax exemption, as it may be and supplemented; Ordinance 02-075 requiring Disclosure of Lobbyist Status and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement and all other relevant Federal, State or City statutes, ordinances, resolutions, rules and regulations.

xv. Lease Up Period - Shall begin on the date of the issuance of the first Certificate of Occupancy (whether permanent or temporary) for any floor or any portion thereof. During the Lease Up Period, the Entity shall pay the sum equal to the estimated Annual Service Charge divided by the number of Units divided by 12 for each Unit for each month after that Unit has received a Certificate of Occupancy, whether the floor is actually occupied or generated revenue. The payment shall begin on the 1<sup>st</sup> day of the month following the issuance of the Certificate of Occupancy for that Floor. The Lease Up Period for the Project expires 18 months after the issuance of the first Certificate of Occupancy for any floor.

xvi. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the higher of the total taxes levied against all real property in the area covered by the Project in the last full tax year in which the area was subject to taxation, which amount the parties agree is \$14,709.79 or the estimated Service Charge.

xvii. Net Profit - The Annual Gross Revenues of The New Entity less all annual operating and non-operating expenses of The New Entity, all determined in accordance with generally accepted

accounting principles, but:

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

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

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

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

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

xxi. Total Project Cost - The total cost of constructing the Project through the date a Certificate(s) of Occupancy is issued for the entire Project, which categories of cost are set forth in N.J.S.A. 40A:20-3(h). There shall be from Total Project Cost the actual costs incurred by The New Entity and certified by an independent and qualified architect or engineer, which are associated with

site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or Federal law and any extraordinary costs incurred including the cost of demolishing structures, relocation or removal of public utilities, cost of relocating displaced residents or buildings and the clearing of title. The New Entity agrees that final Total Project Cost shall not be less than its estimated Total Project Cost.

## **ARTICLE II - APPROVAL**

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

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: Block 13601, Lot 14, more commonly known by the street address 32 Beacon Place, Jersey City, and described by metes and bounds in Exhibit 1 attached hereto.

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

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

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

Entity represents that it will construct a building with approximately sixty six thousand (66,000) square feet parking garage Project to contain approximately one hundred twenty five (125) parking spaces; all of which is specifically described in the Application attached hereto as Exhibit 3.

### **Section 2.4 Construction Schedule**

The New Entity agrees to diligently undertake to commence construction and complete the Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5, and in compliance with any Redevelopment Agreement.

**Section 2.5 Ownership, Management and Control**

The New Entity represents that it is the owner of the property upon which the Project is to be constructed. Upon construction, The New Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and any Redevelopment Agreement.

**Section 2.6 Financial Plan**

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

**Section 2.7 Good Faith Estimate of Initial Sale Prices or Rents**

The New Entity represents that its good faith projections of the initial rents and other revenue to the Project are set forth in Exhibit 7.

**ARTICLE III - DURATION OF AGREEMENT**

**Section 3.1 Term**

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of 20 years from the date of the adoption of Ordinance \_\_\_\_ on \_\_\_\_\_, 20\_\_, which approved the tax exemption or 15 years from the original date of Substantial Completion of the Project or \_\_\_\_20\_\_\_\_. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the Project is owned by a corporation or association formed and operating under the Law.

**ARTICLE IV - ANNUAL SERVICE CHARGE**

**Section 4.1 Annual Service Charge**

In consideration of the tax exemption, The New Entity shall make the following annual payments to the City for services provided to the Project:

- i. City Service Charge: an amount equal to the greater of: the Minimum Annual Service Charge or an Annual Service Charge equal to 10% of Annual Gross Revenue or \$24,938 for the first

ten (10) years; 12% of Annual Gross Revenue or \$38,302 for the last five (5) years. The Annual Service Charge shall be billed initially based upon The New Entity's estimates of Annual Gross Revenue, attached hereto as Exhibit 6. Thereafter, the Annual Service Charge shall be adjusted in accordance with this Agreement. Notwithstanding anything to the contrary contained therein, during the Lease Up Period, the Annual Service Charge shall be prorated in accordance with Section 1.2 (xv) above.

ii. County Service Charge: an amount equal to 5% of the Municipal Annual Service Charge shall be paid to the City and remitted by the City to the County.

iii. A Minimum Annual Service Charge shall be due beginning on the effective date of this Agreement. The City and County Annual Service Charge shall be due on the first day of the month following the Substantial Completion of the Project. In the event The New Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid.

#### **Section 4.2 Staged Adjustments**

The Annual Service Charge shall be adjusted, in Stages over the term of the tax exemption in accordance with N.J.S.A. 40A:20-12(b) as follows:

i. Stage One: From the 1st day of the month following Substantial Completion until the last day of the 6th year, the Annual Service Charge shall be 10% of Annual Gross Revenue;

ii. Stage Two: Beginning on the 1<sup>st</sup> day of the 7th year following Substantial Completion until the last day of the 9th year, an amount equal to the greater of the Annual Service Charge or 20% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;

iii. Stage Three: Beginning on the 1st day of the 10th year following the Substantial Completion until the last day of the 12th year, an amount equal to the greater of the Annual Service Charge or 40% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;

iv. Stage Four: Beginning on the 1st day of the 13th year following Substantial Completion until the last day of the 14th year, an amount equal to the greater of the Annual Service Charge or 60% of the amount of the taxes otherwise due on the initial assessed value of the land and

Improvements.

v. Final Stage: Beginning on the 1st day of the 15th year following Substantial Completion through the date the tax exemption expires, an amount equal to the greater of the Annual Service Charge or 80% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.

#### **Section 4.3 Land Tax**

The New Entity is required to pay both the Annual Service Charge and the Land Tax Payments. The New Entity is obligated to make timely Land Tax Payments, including any tax on the pre-existing improvements, in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. The New Entity shall be entitled to credit for the amount, without interest, of the Land Tax Payments made in the last four preceding quarterly installments against the Annual Service Charge. In any quarter that The New Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render The New Entity ineligible for any Land Tax Payment credit against the Annual Service Charge. No credit will be applied against the Annual Service Charge for a partial payment of Land Taxes. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. and/or declare a Default and terminate this Agreement.

#### **Section 4.4 Quarterly Installments / Interest**

The New Entity expressly agrees that the Annual Service Charge shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that The New Entity fails to pay the Annual Service Charge or any other charge due under this agreement, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid in full.

#### **Section 4.5 Administrative Fee**

The New Entity shall also pay an annual Administrative Fee to the City in addition to the Annual Service Charge and Land Tax levy. The Administrative Fee shall be calculated as two (2%) percent of each prior year's Annual Service Charge. This fee shall be payable and due on or before December 31st of each year, and collected in the same manner as the Annual Service Charge.

**Section 4.6 Affordable Housing Contribution and Remedies**

A. **Contribution.** The New Entity will pay the City the sum of \$99,000 or \$1.50 per square foot of space as a contribution, of which the City acknowledges a partial payment of the sum of \$32,425. The balance due of \$66,575 will be paid in full upon the issuance of the Temporary Certificate of Occupancy for the building.

**Section 4.7 Material Conditions**

It is expressly agreed and understood that the timely payments of Land Taxes, Minimum Annual Service Charges, Annual Service Charges, including adjustments thereto, Administrative Fees, Affordable Housing Contributions, and any interest thereon, are Material Conditions of this Agreement.

**ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT**

**Section 5.1 Project Employment and Contracting Agreement**

In order to provide City residents and businesses with certain employment and other economic related opportunities, The New Entity is subject to the terms and conditions of the Project Employment and Contracting Agreement, attached hereto as Exhibit 8.

**ARTICLE VI - CERTIFICATE OF OCCUPANCY**

**Section 6.1 Certificate of Occupancy**

It is understood and agreed that it shall be the obligation of the New Entity to obtain all Certificates of Occupancy in a timely manner so as to complete construction in accordance with the proposed construction schedule attached hereto as Exhibit 5. The failure to secure the Certificates of Occupancy shall subject the Property to full taxation for the period between the date of Substantial Completion and the date the Certificate of Occupancy is obtained.

**Section 6.2 Filing of Certificate of Occupancy**

It shall be the primary responsibility of The New Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy.

Failure of the New Entity to file such issued Certificate of Occupancy as required by the preceding paragraph, shall not militate against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by The New Entity.

## ARTICLE VII - ANNUAL REPORTS

### **Section 7.1 Accounting System**

The New Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles.

### **Section 7.2 Periodic Reports**

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the New Entity's accounting basis that the Agreement shall continue in effect, the New Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Project and such details as may relate to the financial affairs of the New Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement. The Report shall clearly identify and calculate the Net Profit for the New Entity during the previous year, the excess of which shall be paid to the City each year an excess profit is generated.

B. Total Project Cost Audit: Within ninety (90) days after Substantial Completion of the Project, the New Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, including but not limited to an audit of actual construction costs as certified by the Project architect.

C. Disclosure Statement: On the anniversary date of the execution of this Agreement, and each and every year thereafter while this agreement is in effect, the New Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, a Disclosure Statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each and such additional information as the City may request from time to time. All disclosures shall include ownership interests of the individual persons owning any corporate interest in the New Entity.

### **Section 7.3 Inspection/Audit**

The New Entity shall permit the inspection of its property, equipment, buildings and other

facilities of the Project and, if deemed appropriate or necessary, any other related Entity by representatives duly authorized by the City or 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 New Entity for any year during which the tax exemption financial agreement was in full force and effect.

All costs incurred by the City to conduct a review of the New Entity's audits, including reasonable attorneys' fees if appropriate, shall be billed to the New Entity and paid to the City as part of the New Entity's Annual Service Charge. Delinquent payments shall accrue interest at the same rate as for a delinquent service charge.

### **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 New Entity shall be subject to a limitation of its profits pursuant to the provisions of N.J.S.A. 40A:20-15.

The New Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount equal to five (5%) percent of the Gross Revenue of the New 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 non-cumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of five (5%) percent of the preceding year's Gross Revenue. Pursuant to N.J.S.A. 40A:20-14(b) there is expressly excluded from the calculation of Gross Revenue and Net Profit in the determination of Excess Profit, any gain realized by the New Entity on the sale of any condominium unit, whether or not taxable under federal or state law.

#### **Section 8.2 Annual Payment of Excess Net Profit**

In the event the Net Profits of the New Entity, in any year, exceeds the Allowable Net Profits for such year, then The New Entity, within one hundred and twenty (120) days after the end of the year, shall pay such excess Net Profits to the City as an additional annual service charge; provided, however, that the New Entity may maintain a reserve as determined pursuant to aforementioned

paragraph 8.1. The calculation of the New Entity's Excess Net Profits shall include those project costs directly attributable to site remediation and cleanup expenses and any other costs excluded in the definition of Total Project Cost in Section 1.2 (xx) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

**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 New Entity. Within ninety (90) days after such date, the New Entity shall pay to the City the amount of the reserve, if any, maintained by it pursuant to this section and the balance of the Excess Net Profit, if any.

**ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION**

**Section 9.1 Approval of Sale**

Any 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 New 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 New Entity is not then in default of this Agreement or the Law; 4) the New Entity's obligations under this Agreement are fully assumed by the new Entity; 5) the New Entity is comprised of principals possessing substantially the same or better business reputation, financial qualifications and credit worthiness of the New Entity; and 6) the New Entity pays in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d).

Nothing herein shall prohibit any transfer of the ownership interest in the New Entity itself provided that the transfer, if greater than 10%, is disclosed to the City in the annual disclosure statement or in correspondence sent to the City in advance of the filing of the annual disclosure statement.

**Section 9.2 Transfer Application 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 New 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.

## 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 amended and supplemented, but also by a Default under this Agreement. The New 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.

### **Section 10.2 Disclosure of Lobbyist Representative**

During the term of this Agreement, The New Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The New Entity's failure to comply with the Executive Order or the Ordinance 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 New Entity to conform with the terms of this Agreement or failure of the New Entity to perform any obligation imposed by the Law, beyond any applicable notice, cure or grace period.

### **Section 11.2 Cure Upon Default**

Should the New Entity be in Default, the City shall send written notice to the New Entity of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The New Entity shall have sixty (60) days, from receipt of the Default Notice, to cure any Default which shall be the sole and exclusive remedy available to the New Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

Subsequent to such sixty (60) days, or any approved extension, the City shall have the right

to terminate this Agreement in accordance with Section 12.1.

Should the New Entity be in default due to a failure to pay any charges defined as Material Conditions in Section 4.7, The New Entity shall not be subject to the default procedural remedies as provided herein but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII herein.

### **Section 11.3 Remedies Upon Default**

The City shall, among its other remedies, have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. In order to secure the full and timely payment of the Annual Service Charge, the City on its own behalf, or on behalf of the Trustee, reserves the right to prosecute an In Rem Tax Foreclosure action against the Project Area in accordance with Applicable Law, as more fully set forth in this Financial Agreement.

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the New Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided in Article XI herein, but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against The New Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

In the event of a Default on the part of the New Entity to pay any charges set forth in Article IV, the City among its other remedies, reserves the right to proceed against the New Entity's land and

property, in the manner provided by the In Rem Foreclosure Act, and any act supplementary or amendatory thereof. Whenever the word taxes appear, or is applied, directly or impliedly to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this Agreement, as if the charges were taxes or municipal liens on land.

## **ARTICLE XII- TERMINATION**

### **Section 12.1 Termination Upon Default of The New Entity**

In the event the New Entity fails to cure or remedy the Default within the time period provided in Section 11.2, the City may terminate this Agreement upon thirty (30) days written notice to The New Entity [Notice of Termination].

### **Section 12.2 Voluntary Termination by The New Entity**

The New Entity may notify the City that it will relinquish its status as a tax exempt Project, after the expiration of one year from the Substantial Completion of the Project, as of the January 1<sup>st</sup> of the year next ensuing. The Notice of Voluntary Termination must be received by the City no later than October 1<sup>st</sup> of the tax year preceding the calendar year in which the termination is to occur. As of the date so set, the tax exemption, the Annual Service Charges and the profit and dividend restrictions shall terminate. However, under no circumstances will the New Entity be entitled to any refund, in whole or in part, of any funds paid to the City to obtain the tax exemption, including but not limited to the Affordable Housing Contribution. In addition, the due date for all Affordable Housing Contribution and any other fees that the New Entity agreed to pay under this Agreement, shall be accelerated so that all fees to be paid shall be due on January 1<sup>st</sup> as a condition precedent of the voluntary termination.

### **Section 12.3 Final Accounting**

Within ninety (90) days after the date of termination, whether by affirmative action of the New Entity or by virtue of the provisions of the Law or pursuant to the terms of this Agreement, the New Entity shall provide a final accounting and pay to the City the reserve, if any, pursuant to the provisions of N.J.S.A. 40A:20-13 and 15 as well as any remaining excess Net Profits. For purposes of rendering a final accounting the termination of the Agreement shall be deemed to be the end of the fiscal year for the New Entity.

### **Section 12.4 Conventional Taxes**

Upon Termination or expiration of this Agreement, the tax exemption for the Project shall expire and the land and the Improvements thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the City.

## **ARTICLE XIII - DISPUTE RESOLUTION**

### **Section 13.1 Arbitration**

In the event of a breach of the within Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court of New Jersey by an appropriate proceeding, to settle and resolve the dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. The cost for the arbitration shall be borne by the New Entity. The parties agree that The New Entity may not file an action in Superior Court or with the Arbitration Association unless the New Entity has first paid in full all charges defined in Section 4.8 as Material Conditions.

### **Section 13.2 Appeal of Assessment**

In calculating the amount of “staged” tax adjustments otherwise due pursuant to Section 4.2 and N.J.S.A. 40A:20-12, the New Entity may file an appeal of the conventional assessment but not an appeal of the “initial assessment” used to calculate a service charge.

## **ARTICLE XIV - WAIVER**

### **Section 14.1 Waiver**

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit the City’s right to audit or recover any amount which the City has under law, in equity, or under any provision of this Agreement.

## **ARTICLE XV - INDEMNIFICATION**

**Section 15.1 Defined**

It is understood and agreed that in the event the City shall be named as party defendant in any action by a third party alleging any breach, default or a violation of any of the provisions of this Agreement and/or the provisions of N.J.S.A. 40A:20-1 et seq., the New Entity shall indemnify and hold the City harmless against any and all liability, loss, cost, expense (including reasonable attorneys' fees and costs, through trial and all stages of any appeal, including the cost of enforcing this indemnity) arising out of Agreement. In addition, the New Entity expressly waives all statutory or common law defenses or legal principles which would defeat the purposes of this indemnification. The New Entity also agrees to defend the suit at its own expense. However, the City maintains the right to intervene as a party thereto, to which intervention the New Entity consents; the expense thereof to be borne by the City.

**ARTICLE XVI- NOTICE**

**Section 16.1 Certified Mail**

Any notice required hereunder to be sent by either party to the other shall be sent by certified or registered mail, return receipt requested.

**Section 16.2 Sent by City**

When sent by the City to The New Entity the notice shall be addressed to:

BR Beacon Commerce Urban Renewal Co., LLC  
c/o Beacon Redevelopment, LLC  
4 Beacon Way, #16  
Jersey City, NJ 07304  
Attn:

unless prior to giving of notice The New Entity shall have notified the City in writing otherwise.

In addition, provided the City is sent a formal written notice in accordance with this Agreement, of the name and address of Entity's Mortgagee, the City agrees to provide such Mortgagee with a copy of any notice required to be sent to The New Entity.

**Section 16.3 Sent by Entity**

When sent by The New Entity to the City, it shall be addressed to:

City of Jersey City, Office of the City Clerk  
City Hall  
280 Grove Street  
Jersey City, New Jersey 07302,

with copies sent to the Corporation Counsel, the Business Administrator, and the Tax Collector unless prior to the giving of notice, the City shall have notified The New Entity otherwise. The notice to the City shall identify the Project to which it relates, (i.e., the Urban Renewal Entity and the Property's Block and Lot number).

## **ARTICLE XVII-SEVERABILITY**

### **Section 17.1 Severability**

If any term, covenant or condition of this Agreement or the Application, except a Material Condition, shall be judicially declared to be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the New Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

## **ARTICLE XVIII - MISCELLANEOUS**

### **Section 18.1 Construction**

This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the New Entity and the City have combined in their review and approval of same.

### **Section 18.2 Conflicts**

The parties agree that in the event of a conflict between the Application and the language contained in the Agreement, the Agreement shall govern and prevail. In the event of conflict

between the Agreement and the Law, the Law shall govern and prevail.

**Section 18.3 Oral Representations**

There have been no oral representations made by either of the parties hereto which are not contained in this Agreement. This Agreement, the Ordinance authorizing the Agreement, and the Application constitute the entire Agreement between the parties and there shall be no modifications thereto other than by a written instrument approved and executed by both parties and delivered to each party.

**Section 18.4 Entire Document / Termination**

This Agreement and all conditions in the Ordinance of the Municipal Council approving this Agreement are incorporated in this Agreement and made a part hereof. The Financial Agreement dated January 3, 2007, is hereby terminated.

**Section 18.5 Good Faith**

In their dealings with each other, utmost good faith is required from The New Entity and the City.

**ARTICLE XIX - EXHIBITS**

**Section 19 Exhibits**

The following Exhibits are attached hereto and incorporated herein as if set forth at length herein:

1. Metes and Bounds description of the Project;
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. Good Faith Estimate of Initial Rents;
8. Project Employment and Contracting Agreement;
9. Architect's Certification of Actual Construction Costs.
10. Entity's Deed

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

**WITNESS:**

**BR BEACON COMMERCE URBAN  
RENEWAL COMPANY, LLC**

\_\_\_\_\_

\_\_\_\_\_

**ATTEST:**

**CITY OF JERSEY CITY**

\_\_\_\_\_  
**ROBERT BYRNE  
CITY CLERK**

\_\_\_\_\_  
**JOHN KELLY  
BUSINESS ADMINISTRATOR**

City Clerk File No. Ord. 12-148

Agenda No. 3. I 1st Reading

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



## ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-148

**TITLE: ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR BEACON PARKING URBAN RENEWAL COMPANY, LLC, FOR A COMMERCIAL PARKING GARAGE PROJECT; 2) ASSIGNING THE AFFORDABLE HOUSING CONTRIBUTION CREDITS DUE THE BEACON PARKING URBAN RENEWAL COMPANY, LLC, UNDER ITS FINANCIAL AGREEMENT, TO BR BEACON PARKING URBAN RENEWAL COMPANY, LLC; AND 3) REPEALING ORDINANCE 05-094**

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

**WHEREAS**, The Beacon Parking Urban Renewal Company, L.L.C., is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 16 (formerly known as Block 1899, Lot 31), on the City's Official Tax map, more commonly known by the street address of 44 Beacon Place, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5; and

**WHEREAS**, by the adoption of Ordinance 05-094, the City of Jersey City approved a 30 year long term tax exemption to substantially rehabilitate, restore and construct a parking facility containing approximately 1150 parking spaces as rental units [Project] paying a service charge equal to 10% of annual gross revenue or approximately \$231,790 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the amount of \$231,790, to be credited against future service charge over four years; and

**WHEREAS**, on August 30, 2005 the Financial Agreement was executed; and

**WHEREAS**, the Affordable Housing contribution needs to be adjusted as the result of a recent site plan approval that reduced the square footage of the parking garage from 242,822 square feet to 180,000 square feet; and

**WHEREAS**, the Original Entity paid the sum of \$121,411 of the \$270,000 owed to the City the recalculated Affordable Housing contribution; and

ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR BEACON PARKING URBAN RENEWAL COMPANY, LLC, FOR A COMMERCIAL PARKING GARAGE PROJECT; 2) ASSIGNING THE AFFORDABLE HOUSING CONTRIBUTION CREDITS DUE THE BEACON PARKING URBAN RENEWAL COMPANY, LLC, UNDER ITS FINANCIAL AGREEMENT, TO BR BEACON PARKING URBAN RENEWAL COMPANY, LLC; AND 3) REPEALING ORDINANCE 05-094

**WHEREAS**, BR Beacon Parking Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption for a parking garage facility to contain approximately 550 parking spaces serving the Development, to: reduce the original term of the tax exemption from 30 to 15 years, re-set the term and increase the service charge for the last five (5) years only, from 10% to 12%; and

**WHEREAS**, under the new tax exemption, the service charge would be approximately \$167,095 for the first ten years and \$256,644 for the final five years; and

**WHEREAS**, the New Entity has agreed to:

1. pay the greater of (i) the Minimum Annual Service Charge or (ii) 10% of Annual Gross Revenue or \$167,095 for the first ten (10) years; and 12% of Annual Gross Revenue or \$256,644 for the last five (5) years, and which shall be subject to statutory staged increases over the term of the tax exemption;
2. pay an annual sum equal to 2% of each prior year's Annual Service Charge as an Administrative Fee;
3. provide employment and other economic opportunities for City residents and businesses;
4. pay to City for remittance to Hudson County, an amount equal to 5% of the Annual Service Charge upon receipt of that charge;
5. pay the sum of \$148,589, which is the balance due to the City's Affordable Housing Trust Fund, which amount will be paid upon *the issuance of the Temporary Certificate of Occupancy for the building.*

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

1. the current real estate taxes generate less revenue than the estimated Annual Service Charge of \$167,095 to the City and an additional sum equal to 5% of the Annual Service Charge to Hudson County;
2. it is expected that the Project will create approximately 18 jobs during construction and 3 new permanent jobs;
3. the New Project will stabilize and contribute to the economic growth of businesses in the surrounding area;
4. the New Project will further the overall redevelopment objectives of the Medical Center Study Area Redevelopment Plan;
5. the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR BEACON PARKING URBAN RENEWAL COMPANY, LLC, FOR A COMMERCIAL PARKING GARAGE PROJECT; 2) ASSIGNING THE AFFORDABLE HOUSING CONTRIBUTION CREDITS DUE THE BEACON PARKING URBAN RENEWAL COMPANY, LLC, UNDER ITS FINANCIAL AGREEMENT, TO BR BEACON PARKING URBAN RENEWAL COMPANY, LLC; AND 3) REPEALING ORDINANCE 05-094

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

**WHEREAS**, BR Beacon Parking Urban Renewal Company, LLC, has initially complied with Executive Order 2002-005 concerning "Disclosure of Lobbyist Representative Status" by filing an appropriate letter in the Office of the City Clerk; and

**WHEREAS**, at its meeting of August 10, 2012, the Tax Abatement Committee voted in favor of the approval of the New Entity's application for tax exemption.

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

A. The application of The Beacon Parking Urban Renewal Company, L.L.C., an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., a copy of which is on file in the office of the City Clerk, for Block 13601, Lot 16 (formerly known as Block 1899, Lot 31), to assign its Affordable Housing contribution partial credits to BR Beacon Parking Urban Renewal Company, LLC, is hereby approved.

B. The application of BR Beacon Parking Urban Renewal Company, 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., for a new tax exemption, is hereby approved.

C. The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement and a Project Employment and Contracting Agreement. The Financial Agreement shall include at a minimum the following terms and conditions:

1. Term: the earlier of 20 years from the adoption of the within Ordinance or 15 years from the date the project is Substantially Complete;
2. Annual Service Charge: each year the greater of:
  - (a) the Minimum Annual Service Charge or;
  - (b) 10% of Annual Gross Revenue or \$167,095 for the first ten (10) years; 12% of Annual Gross Revenue or \$256,644 for the last five (5) years, all of which shall be subject to statutory increases during the term of the tax exemption.
3. Administrative Fee: 2% of the prior year's Annual Service Charge;
4. County Payment: an additional 5% of the Annual Service Charge for remittance upon receipt to Hudson County;
5. Affordable Housing Trust Fund: \$1.50 per square foot for a total of \$270,000, of which the City acknowledges a partial payment in the sum of \$121,411. The balance due of \$148,589 will be paid in full upon *the issuance of the Temporary Certificate of Occupancy for the building*;

ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR BEACON PARKING URBAN RENEWAL COMPANY, LLC, FOR A COMMERCIAL PARKING GARAGE PROJECT; 2) ASSIGNING THE AFFORDABLE HOUSING CONTRIBUTION CREDITS DUE THE BEACON PARKING URBAN RENEWAL COMPANY, LLC, UNDER ITS FINANCIAL AGREEMENT, TO BR BEACON PARKING URBAN RENEWAL COMPANY, LLC; AND 3) REPEALING ORDINANCE 05-094

6. Project: substantially rehabilitate, restore and construct a building to be developed as a 180,000 square foot parking garage to contain approximately 550 parking spaces;

7. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses;

D. The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Tax Assessor and Director of the Division of Local Government Services.

E. The application is on file with the office of the City Clerk. The Financial Agreement and Project Employment and Contracting Agreement shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.

F. All ordinances, specifically Ordinance 05-094, and parts of ordinances inconsistent herewith are hereby repealed.

G. 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.

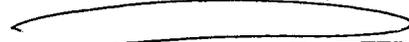
H. This ordinance shall take effect at the time and in the manner provided by law.

I. 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  
10-16-12

APPROVED AS TO LEGAL FORM

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

APPROVED: \_\_\_\_\_

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

Certification Required

Not Required

Rev. 10-17-12  
Long Term Tax Exemption  
N.J.S.A. 40A:20-1, et seq.  
(Commercial or Industrial Rental)

Re: 44 Beacon Place  
Block 13601, Lot 16  
The Beacon Redevelopment Plan

**PREAMBLE**

**THIS FINANCIAL AGREEMENT**, [Agreement] is made the \_\_\_\_\_ day of \_\_, 20\_\_ by and between **BR BEACON PARKING URBAN RENEWAL COMPANY, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at c/o Beacon Redevelopment, LLC, 4 Beacon Way, #16, Jersey City, NJ 07304 [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 Beacon Parking Urban Renewal Company, LLC, is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 16 (formerly known as Block 1899, Lot 31), on the City's Official Tax map, more commonly known by the street address of 44 Beacon Place, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, by the adoption of Ordinance 05-094, the City of Jersey City approved a 30 year long term tax exemption to substantially rehabilitate, restore and construct a parking facility containing approximately 1150 parking spaces as rental units [Project] paying a service charge equal to 10% of annual gross revenue or approximately \$231,790 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the

amount of \$231,790, to be credited against future service charge over four years; and

**WHEREAS**, on August 30, 2005 the Financial Agreement was executed; and

**WHEREAS**, the Affordable Housing contribution needs to be adjusted as the result of a recent site plan approval that reduced the square footage of the parking garage from 242,822 square feet to 180,000 square feet; and

**WHEREAS**, the Original Entity paid the sum of \$121,411 of the \$270,000 owed to the City as its Affordable Housing contribution; and

**WHEREAS**, BR Beacon Parking Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, the New Entity is the Owner pursuant to Deed dated December 29, 2011, of certain property designated as Block 13601, Lot 16, more commonly known by the street address of 44 Beacon Place, Jersey City, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g).; and

**WHEREAS**, the New Entity plans to construct a building with approximately one hundred eighty thousand (180,000) square feet parking garage Project to contain approximately five hundred fifty (550) parking spaces; [Project]; and

**WHEREAS**, on \_\_\_\_\_ the Project received site plan approval from the Planning Board; and

**WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption for the 180,000 square foot parking garage Project to contain approximately 550 parking spaces, to: reduce the original term of the tax exemption from 30 to 15 years, re-set the term and increase the service charge for the last five (5) years only, from 10% to 12%; and

**WHEREAS**, under the new tax exemption, the service charge would be approximately

\$167,095 for the first ten years and \$256,644 for the final five years; and

**WHEREAS**, by the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_, the Municipal Council approved a long term tax exemption for the Project and authorized the execution of a Financial Agreement; and

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

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

1. the current real estate tax generates revenue of only \$25,572.19, whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately 10% of Annual Gross Revenue or \$167,095 for the first ten (10) years; and 12% of Annual Gross Revenue or \$256,644 for the last five (5) years;
2. the New Entity will pay the City the sum of \$148,589, as an affordable housing contribution pursuant to Ordinance 03-112; which is the balance due to the City's Affordable Housing Trust Fund, which amount will be paid in full upon execution of the new agreement;
3. it is expected that the Project will create approximately 18 new construction jobs and 3 new permanent full time jobs;
4. the project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants;
5. the Project will further the redevelopment objectives of The Beacon Redevelopment Plan Area, which include remediation or development of vacant property;
6. the City's Impact Analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

1. the relative stability and predictability of the annual service charges will make the Project more attractive to investors and lenders needed to finance the Project; and
2. the relative stability and predictability of the service charges will allow the owner to stabilize its operating budget, allowing a high level of maintenance

to the building over the life of the Project, which will attract occupants to the Project, insure the likelihood of stabilized rents to tenants and the success of the Project; and

3. have a positive impact on the surrounding area.

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

### **ARTICLE I - GENERAL PROVISIONS**

#### **Section 1.1 Governing Law**

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

#### **Section 1.2 General Definitions**

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

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

iii. Annual Gross Revenue Any and all revenue derived from or generated by the Project of whatever kind or amount, whether received as rent from any tenants or income or fees from third parties, including but not limited to fees or income paid or received for parking, or as user fees or for any other services. No deductions will be allowed for operating or maintenance costs, including, but not limited to gas, electric, water and sewer, other utilities, garbage removal and insurance charges, whether paid for by the landlord, tenant or a third party.

iv. Annual Service Charge - The amount The New Entity has agreed to pay the City each year for municipal services supplied to the Project, which sum is in lieu of any taxes on the Improvements, pursuant to N.J.S.A. 40A:20-12. It shall include a payment for all annual excess profit.

v. Auditor's Report - A complete annual financial statement outlining the financial status of the Project, which shall also include a certification of Total Project Cost and clear computation of the annual Net Profit. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles and shall contain at a minimum the following: a balance sheet, a statement of income, a statement of retained earnings or changes in stockholders' equity, a statement of cash flows, descriptions of accounting policies, notes to financial statements and appropriate schedules and explanatory material results of operations, cash flows and any other items required by Law. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

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

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

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

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

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

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

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

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

xiv. Law - Law shall refer to the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1, et seq.; Executive Order of the Mayor 02-003, relating to long term tax exemption, as it may be and supplemented; Ordinance 02-075 requiring Disclosure of Lobbyist Status and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement and all other relevant Federal, State or City statutes, ordinances, resolutions, rules and regulations.

xv. Lease Up Period - Shall begin on the date of the issuance of the first Certificate of Occupancy (whether permanent or temporary) for any floor or any portion thereof. During the Lease Up Period, the Entity shall pay the sum equal to the estimated Annual Service Charge divided by the number of Units divided by 12 for each Unit for each month after that Unit has received a Certificate of Occupancy, whether the floor is actually occupied or generated revenue. The payment shall begin on the 1<sup>st</sup> day of the month following the issuance of the Certificate of Occupancy for that Floor. The Lease Up Period for the Project expires 18 months after the issuance of the first Certificate of Occupancy for any floor.

xvi. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the higher of the total taxes levied against all real property in the area covered by the Project in the

last full tax year in which the area was subject to taxation, which amount the parties agree is \$25,572.19 or the estimated Service Charge.

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

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

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

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

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

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

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

## **ARTICLE II - APPROVAL**

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

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: Block 13601, Lot 16, more commonly known by the street address 44 Beacon Place, Jersey City, and described by metes and bounds in Exhibit 1 attached hereto.

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

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

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

Entity represents that it will construct a building with approximately one hundred eighty thousand (180,000) square feet parking garage Project to contain approximately five hundred fifty (550) parking spaces; all of which is specifically described in the Application attached hereto as Exhibit 3.

### **Section 2.4 Construction Schedule**

The New Entity agrees to diligently undertake to commence construction and complete the Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5, and in compliance with any Redevelopment Agreement.

**Section 2.5 Ownership, Management and Control**

The New Entity represents that it is the owner of the property upon which the Project is to be constructed. Upon construction, The New Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and any Redevelopment Agreement.

**Section 2.6 Financial Plan**

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

**Section 2.7 Good Faith Estimate of Initial Sale Prices or Rents**

The New Entity represents that its good faith projections of the initial rents and other revenue to the Project are set forth in Exhibit 7.

**ARTICLE III - DURATION OF AGREEMENT**

**Section 3.1 Term**

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of 20 years from the date of the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, which approved the tax exemption or 15 years from the original date of Substantial Completion of the Project or \_\_\_\_20\_\_\_\_. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the Project is owned by a corporation or association formed and operating under the Law.

**ARTICLE IV - ANNUAL SERVICE CHARGE**

**Section 4.1 Annual Service Charge**

In consideration of the tax exemption, The New Entity shall make the following annual

payments to the City for services provided to the Project:

i. City Service Charge: an amount equal to the greater of: the Minimum Annual Service Charge or an Annual Service Charge equal to 10% of Annual Gross Revenue or \$167,095 for the first ten (10) years; 12% of Annual Gross Revenue or \$256,644 for the last five (5) years. The Annual Service Charge shall be billed initially based upon The New Entity's estimates of Annual Gross Revenue, attached hereto as Exhibit 6. Thereafter, the Annual Service Charge shall be adjusted in accordance with this Agreement. Notwithstanding anything to the contrary contained therein, during the Lease Up Period, the Annual Service Charge shall be prorated in accordance with Section 1.2 (xv) above.

ii. County Service Charge: an amount equal to 5% of the Municipal Annual Service Charge shall be paid to the City and remitted by the City to the County.

iii. A Minimum Annual Service Charge shall be due beginning on the effective date of this Agreement. The City and County Annual Service Charge shall be due on the first day of the month following the Substantial Completion of the Project. In the event the New Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid.

#### **Section 4.2 Staged Adjustments**

The Annual Service Charge shall be adjusted, in Stages over the term of the tax exemption in accordance with N.J.S.A. 40A:20-12(b) as follows:

i. Stage One: From the 1st day of the month following Substantial Completion until the last day of the 6th year, the Annual Service Charge shall be 10% of Annual Gross Revenue;

ii. Stage Two: Beginning on the 1<sup>st</sup> day of the 7th year following Substantial Completion until the last day of the 9th year, an amount equal to the greater of the Annual Service Charge or 20% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;

iii. Stage Three: Beginning on the 1st day of the 10th year following the Substantial Completion until the last day of the 12th year, an amount equal to the greater of the Annual Service Charge or 40% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;

iv. Stage Four: Beginning on the 1st day of the 13th year following Substantial Completion until the last day of the 14th year, an amount equal to the greater of the Annual Service Charge or 60% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.

v. Final Stage: Beginning on the 1st day of the 15th year following Substantial Completion through the date the tax exemption expires, an amount equal to the greater of the Annual Service Charge or 80% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.

### **Section 4.3 Land Tax**

The New Entity is required to pay both the Annual Service Charge and the Land Tax Payments. The New Entity is obligated to make timely Land Tax Payments, including any tax on the pre-existing improvements, in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. The New Entity shall be entitled to credit for the amount, without interest, of the Land Tax Payments made in the last four preceding quarterly installments against the Annual Service Charge. In any quarter that The New Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render The New Entity ineligible for any Land Tax Payment credit against the Annual Service Charge. No credit will be applied against the Annual Service Charge for a partial payment of Land Taxes. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. and/or declare a Default and terminate this Agreement.

### **Section 4.4 Quarterly Installments / Interest**

The New Entity expressly agrees that the Annual Service Charge shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the New Entity fails to pay the Annual Service Charge or any other charge due under this agreement, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid in full.

### **Section 4.5 Administrative Fee**

The New Entity shall also pay an annual Administrative Fee to the City in addition to the

Annual Service Charge and Land Tax levy. The Administrative Fee shall be calculated as two (2%) percent of each prior year's Annual Service Charge. This fee shall be payable and due on or before December 31st of each year, and collected in the same manner as the Annual Service Charge.

**Section 4.6 Affordable Housing Contribution and Remedies**

A. **Contribution.** The New Entity will pay the City the sum of \$270,000 or \$1.50 per square foot of space as a contribution, of which the City acknowledges a partial payment of the sum of \$121,411. The balance due of \$148,589 will be paid in full upon the issuance of the Temporary Certificate of Occupancy for the building.

**Section 4.7 Material Conditions**

It is expressly agreed and understood that the timely payments of Land Taxes, Minimum Annual Service Charges, Annual Service Charges, including adjustments thereto, Administrative Fees, Affordable Housing Contributions, and any interest thereon, are Material Conditions of this Agreement.

**ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT**

**Section 5.1 Project Employment and Contracting Agreement**

In order to provide City residents and businesses with certain employment and other economic related opportunities, the New Entity is subject to the terms and conditions of the Project Employment and Contracting Agreement, attached hereto as Exhibit 8.

**ARTICLE VI - CERTIFICATE OF OCCUPANCY**

**Section 6.1 Certificate of Occupancy**

It is understood and agreed that it shall be the obligation of the New Entity to obtain all Certificates of Occupancy in a timely manner so as to complete construction in accordance with the proposed construction schedule attached hereto as Exhibit 5. The failure to secure the Certificates of Occupancy shall subject the Property to full taxation for the period between the date of Substantial Completion and the date the Certificate of Occupancy is obtained.

**Section 6.2 Filing of Certificate of Occupancy**

It shall be the primary responsibility of The New Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy.

Failure of the New Entity to file such issued Certificate of Occupancy as required by the

preceding paragraph, shall not militate against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by The New Entity.

## **ARTICLE VII - ANNUAL REPORTS**

### **Section 7.1 Accounting System**

The New Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles.

### **Section 7.2 Periodic Reports**

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the New Entity's accounting basis that the Agreement shall continue in effect, the New Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Project and such details as may relate to the financial affairs of the New Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement. The Report shall clearly identify and calculate the Net Profit for the New Entity during the previous year, the excess of which shall be paid to the City each year an excess profit is generated.

B. Total Project Cost Audit: Within ninety (90) days after Substantial Completion of the Project, the New Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, including but not limited to an audit of actual construction costs as certified by the Project architect.

C. Disclosure Statement: On the anniversary date of the execution of this Agreement, and each and every year thereafter while this agreement is in effect, the New Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, a Disclosure Statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each and such additional information as the City may request from time to time. All disclosures shall include ownership interests of the

individual persons owning any corporate interest in the New Entity.

**Section 7.3 Inspection/Audit**

The New Entity shall permit the inspection of its property, equipment, buildings and other facilities of the Project and, if deemed appropriate or necessary, any other related Entity by representatives duly authorized by the City or 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 New Entity for any year during which the tax exemption financial agreement was in full force and effect.

All costs incurred by the City to conduct a review of the New Entity's audits, including reasonable attorneys' fees if appropriate, shall be billed to the New Entity and paid to the City as part of the New Entity's Annual Service Charge. Delinquent payments shall accrue interest at the same rate as for a delinquent service charge.

**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 New Entity shall be subject to a limitation of its profits pursuant to the provisions of N.J.S.A. 40A:20-15.

The New Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount equal to five (5%) percent of the Gross Revenue of the New 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 non-cumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of five (5%) percent of the preceding year's Gross Revenue. Pursuant to N.J.S.A. 40A:20-14(b) there is expressly excluded from the calculation of Gross Revenue and Net Profit in the determination of Excess Profit, any gain realized by the New Entity on the sale of any condominium unit, whether or not taxable under federal or state law.

**Section 8.2 Annual Payment of Excess Net Profit**

In the event the Net Profits of the New Entity, in any year, exceeds the Allowable Net Profits

for such year, then The New Entity, within one hundred and twenty (120) days after the end of the year, shall pay such excess Net Profits to the City as an additional annual service charge; provided, however, that the New Entity may maintain a reserve as determined pursuant to aforementioned paragraph 8.1. The calculation of the New Entity's Excess Net Profits shall include those project costs directly attributable to site remediation and cleanup expenses and any other costs excluded in the definition of Total Project Cost in Section 1.2 (xx) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

**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 New Entity. Within ninety (90) days after such date, the New Entity shall pay to the City the amount of the reserve, if any, maintained by it pursuant to this section and the balance of the Excess Net Profit, if any.

**ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION**

**Section 9.1 Approval of Sale**

Any 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 New 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 New Entity is not then in default of this Agreement or the Law; 4) the New Entity's obligations under this Agreement are fully assumed by the new Entity; 5) the New Entity is comprised of principals possessing substantially the same or better business reputation, financial qualifications and credit worthiness of the New Entity; and 6) the New Entity pays in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d).

Nothing herein shall prohibit any transfer of the ownership interest in the New Entity itself provided that the transfer, if greater than 10%, is disclosed to the City in the annual disclosure statement or in correspondence sent to the City in advance of the filing of the annual disclosure statement.

## **Section 9.2 Transfer Application 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 New 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.

## **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 amended and supplemented, but also by a Default under this Agreement. The New 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.

### **Section 10.2 Disclosure of Lobbyist Representative**

During the term of this Agreement, The New Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The New Entity's failure to comply with the Executive Order or the Ordinance 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 New Entity to conform with the terms of this Agreement or failure of the New Entity to perform any obligation imposed by the Law, beyond any applicable notice, cure or grace period.

### **Section 11.2 Cure Upon Default**

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

cure any Default which shall be the sole and exclusive remedy available to the New Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

Subsequent to such sixty (60) days, or any approved extension, the City shall have the right to terminate this Agreement in accordance with Section 12.1.

Should the New Entity be in default due to a failure to pay any charges defined as Material Conditions in Section 4.7, The New Entity shall not be subject to the default procedural remedies as provided herein but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII herein.

### **Section 11.3 Remedies Upon Default**

The City shall, among its other remedies, have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. In order to secure the full and timely payment of the Annual Service Charge, the City on its own behalf, or on behalf of the Trustee, reserves the right to prosecute an In Rem Tax Foreclosure action against the Project Area in accordance with Applicable Law, as more fully set forth in this Financial Agreement.

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the New Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided in Article XI herein, but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against The New Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes

shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

In the event of a Default on the part of the New Entity to pay any charges set forth in Article IV, the City among its other remedies, reserves the right to proceed against the New Entity's land and property, in the manner provided by the In Rem Foreclosure Act, and any act supplementary or amendatory thereof. Whenever the word taxes appear, or is applied, directly or impliedly to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this Agreement, as if the charges were taxes or municipal liens on land.

## **ARTICLE XII- TERMINATION**

### **Section 12.1 Termination Upon Default of The New Entity**

In the event the New Entity fails to cure or remedy the Default within the time period provided in Section 11.2, the City may terminate this Agreement upon thirty (30) days written notice to The New Entity [Notice of Termination].

### **Section 12.2 Voluntary Termination by The New Entity**

The New Entity may notify the City that it will relinquish its status as a tax exempt Project, after the expiration of one year from the Substantial Completion of the Project , as of the January 1<sup>st</sup> of the year next ensuing. The Notice of Voluntary Termination must be received by the City no later than October 1<sup>st</sup> of the tax year preceding the calendar year in which the termination is to occur. As of the date so set, the tax exemption, the Annual Service Charges and the profit and dividend restrictions shall terminate. However, under no circumstances will the New Entity be entitled to any refund, in whole or in part, of any funds paid to the City to obtain the tax exemption, including but not limited to the Affordable Housing Contribution. In addition, the due date for all Affordable Housing Contribution and any other fees that the New Entity agreed to pay under this Agreement, shall be accelerated so that all fees to be paid shall be due on January 1<sup>st</sup> as a condition precedent of the voluntary termination.

### **Section 12.3 Final Accounting**

Within ninety (90) days after the date of termination, whether by affirmative action of the New Entity or by virtue of the provisions of the Law or pursuant to the terms of this Agreement, the New Entity shall provide a final accounting and pay to the City the reserve, if any, pursuant to the

provisions of N.J.S.A. 40A:20-13 and 15 as well as any remaining excess Net Profits. For purposes of rendering a final accounting the termination of the Agreement shall be deemed to be the end of the fiscal year for the New Entity.

**Section 12.4 Conventional Taxes**

Upon Termination or expiration of this Agreement, the tax exemption for the Project shall expire and the land and the Improvements thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the City.

**ARTICLE XIII - DISPUTE RESOLUTION**

**Section 13.1 Arbitration**

In the event of a breach of the within Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court of New Jersey by an appropriate proceeding, to settle and resolve the dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. The cost for the arbitration shall be borne by the New Entity. The parties agree that The New Entity may not file an action in Superior Court or with the Arbitration Association unless the New Entity has first paid in full all charges defined in Section 4.8 as Material Conditions.

**Section 13.2 Appeal of Assessment**

In calculating the amount of “staged” tax adjustments otherwise due pursuant to Section 4.2 and N.J.S.A. 40A:20-12, the New Entity may file an appeal of the conventional assessment but not an appeal of the “initial assessment” used to calculate a service charge.

**ARTICLE XIV - WAIVER**

**Section 14.1 Waiver**

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit the City’s right to audit or recover any amount which the

City has under law, in equity, or under any provision of this Agreement.

## **ARTICLE XV - INDEMNIFICATION**

### **Section 15.1 Defined**

It is understood and agreed that in the event the City shall be named as party defendant in any action by a third party alleging any breach, default or a violation of any of the provisions of this Agreement and/or the provisions of N.J.S.A. 40A:20-1 et seq., the New Entity shall indemnify and hold the City harmless against any and all liability, loss, cost, expense (including reasonable attorneys' fees and costs, through trial and all stages of any appeal, including the cost of enforcing this indemnity) arising out of Agreement. In addition, the New Entity expressly waives all statutory or common law defenses or legal principles which would defeat the purposes of this indemnification. The New Entity also agrees to defend the suit at its own expense. However, the City maintains the right to intervene as a party thereto, to which intervention the New Entity consents; the expense thereof to be borne by the City.

## **ARTICLE XVI- NOTICE**

### **Section 16.1 Certified Mail**

Any notice required hereunder to be sent by either party to the other shall be sent by certified or registered mail, return receipt requested.

### **Section 16.2 Sent by City**

When sent by the City to The New Entity the notice shall be addressed to:

BR Beacon Parking Urban Renewal Co., LLC  
c/o Beacon Redevelopment, LLC  
4 Beacon Way, #16  
Jersey City, NJ 07304  
Attn:

unless prior to giving of notice The New Entity shall have notified the City in writing otherwise.

In addition, provided the City is sent a formal written notice in accordance with this Agreement, of the name and address of Entity's Mortgagee, the City agrees to provide such Mortgagee with a copy of any notice required to be sent to The New Entity.

### **Section 16.3 Sent by Entity**

When sent by The New Entity to the City, it shall be addressed to:

City of Jersey City, Office of the City Clerk  
City Hall  
280 Grove Street  
Jersey City, New Jersey 07302,

with copies sent to the Corporation Counsel, the Business Administrator, and the Tax Collector unless prior to the giving of notice, the City shall have notified The New Entity otherwise. The notice to the City shall identify the Project to which it relates, (i.e., the Urban Renewal Entity and the Property's Block and Lot number).

### **ARTICLE XVII-SEVERABILITY**

#### **Section 17.1 Severability**

If any term, covenant or condition of this Agreement or the Application, except a Material Condition, shall be judicially declared to be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the New Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

### **ARTICLE XVIII - MISCELLANEOUS**

#### **Section 18.1 Construction**

This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the New Entity and the City have combined in their review and approval of same.

**Section 18.2 Conflicts**

The parties agree that in the event of a conflict between the Application and the language contained in the Agreement, the Agreement shall govern and prevail. In the event of conflict between the Agreement and the Law, the Law shall govern and prevail.

**Section 18.3 Oral Representations**

There have been no oral representations made by either of the parties hereto which are not contained in this Agreement. This Agreement, the Ordinance authorizing the Agreement, and the Application constitute the entire Agreement between the parties and there shall be no modifications thereto other than by a written instrument approved and executed by both parties and delivered to each party.

**Section 18.4 Entire Document / Termination**

This Agreement and all conditions in the Ordinance of the Municipal Council approving this Agreement are incorporated in this Agreement and made a part hereof. The Financial Agreement dated January 3, 2007, is hereby terminated.

**Section 18.5 Good Faith**

In their dealings with each other, utmost good faith is required from The New Entity and the City.

**ARTICLE XIX - EXHIBITS**

**Section 19 Exhibits**

The following Exhibits are attached hereto and incorporated herein as if set forth at length herein:

1. Metes and Bounds description of the Project;
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. Good Faith Estimate of Initial Rents;
8. Project Employment and Contracting Agreement;
9. Architect's Certification of Actual Construction Costs.
10. Entity's Deed

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

**WITNESS:**

**BR BEACON PARKING URBAN  
RENEWAL COMPANY, LLC**

\_\_\_\_\_

\_\_\_\_\_

**ATTEST:**

**CITY OF JERSEY CITY**

\_\_\_\_\_  
**ROBERT BYRNE  
CITY CLERK**

\_\_\_\_\_  
**JOHN KELLY  
BUSINESS ADMINISTRATOR**

City Clerk File No. Ord. 12-149

Agenda No. 3.J 1st Reading

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



## ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-149

**TITLE: ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR MERCURY URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-158**

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

**WHEREAS**, The Mercury Urban Renewal Company, L.L.C., is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 8 (formerly known as Block 1899, Lot 24), on the City's Official Tax map, more commonly known by the street address of 20 Beacon Way, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5; and

**WHEREAS**, by the adoption of Ordinance 06-158, the City of Jersey City approved a 30 year long term tax exemption for 84 market rate residential condominium units [Project] paying a service charge equal to 12% of annual gross revenue or approximately \$428,287 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the amount of \$214,143.50, to be credited against future service charge over four years ; and

**WHEREAS**, on January 3, 2007 the Financial Agreement was executed; and

**WHEREAS**, the Original Entity did not pay the Affordable Housing contribution, which was \$126,000; and

**WHEREAS**, BR Mercury Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption that would convert the Project from 84 residential condominium units to 126 market rate residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%; and

**WHEREAS**, under the new tax exemption, the service charge would be approximately \$291,853 for the first ten years and \$448,262 for the final five years; and

**ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR MERCURY URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-158**

**WHEREAS**, the New Entity has agreed to:

1. pay the greater of (i) the Minimum Annual Service Charge or (ii) 10% of Annual Gross Revenue or \$291,853 for the first ten (10) years; and 12% of Annual Gross Revenue or \$448,262 for the last five (5) years, and which shall be subject to statutory staged increases over the term of the tax exemption; and
2. pay an annual sum equal to 2% of each prior year's Annual Service Charge as an Administrative Fee; and
3. provide employment and other economic opportunities for City residents and businesses;
4. pay to City for remittance to Hudson County, an amount equal to 5% of the Annual Service Charge upon receipt of that charge;
5. pay the sum of \$189,000 (an increase of \$63,000 due to the increase in the number of units) to the City's Affordable Housing Trust Fund in full upon *the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased*; and

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

1. the current real estate taxes generate less revenue than the estimated Annual Service Charge of \$291,853 to the City and an additional sum equal to 5% of the Annual Service Charge to Hudson County;
2. it is expected that the Project will create approximately 73 jobs during construction and 6 new permanent jobs;
3. the New Project will stabilize and contribute to the economic growth of businesses in the surrounding area;
4. the New Project will further the overall redevelopment objectives of the Medical Center Study Area Redevelopment Plan;
5. the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

**WHEREAS**, at its meeting of August 10, 2012, the Tax Abatement Committee voted in favor of the approval of the New Entity's application for tax exemption.

ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR MERCURY URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-158

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

A. The application of BR Mercury Urban Renewal Company, L.L.C., an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., a copy of which is on file in the office of the City Clerk, for Block 13601, Lot 8 (formerly known as Block 1899, Lot 24), for a new tax exemption that would convert the Project from 84 residential condominium units to 126 market rate residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%, is hereby approved.

B. The application of BR Mercury Urban Renewal Company, 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., for a new tax exemption, is hereby approved.

C. The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement and a Project Employment and Contracting Agreement. The Financial Agreement shall include at a minimum the following terms and conditions:

1. Term: the earlier of 20 years from the adoption of the within Ordinance or 15 years from the date the project is Substantially Complete;
2. Annual Service Charge: each year the greater of:
  - (a) the Minimum Annual Service Charge or;
  - (b) 10% of Annual Gross Revenue or \$291,853 for the first ten (10) years; 12% of Annual Gross Revenue or \$448,262 for the last five (5) years, all of which shall be subject to statutory increases during the term of the tax exemption.
3. Administrative Fee: 2% of the prior year's Annual Service Charge;
4. County Payment: an additional 5% of the Annual Service Charge for remittance upon receipt to Hudson County;
5. Affordable Housing Trust Fund: \$1,500 per unit for a total of \$189,000 to be paid in full upon *the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased;*
6. Project: substantially rehabilitate, restore and construct a building to contain approximately 126 market rate residential rental units;
7. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses.

D. The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Tax Assessor and Director of the Division of Local Government Services.

E. The application is on file with the office of the City Clerk. The Financial Agreement and Project Employment and Contracting Agreement shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.

F. All ordinances, specifically Ordinance 06-158, and parts of ordinances inconsistent herewith are hereby repealed.

ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR MERCURY URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-158

G. 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.

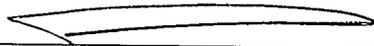
H. This ordinance shall take effect at the time and in the manner provided by law.

I. 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*.

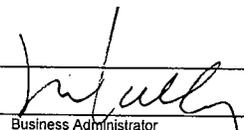
*JM/he*  
10-16-12

APPROVED AS TO LEGAL FORM

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

APPROVED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

  
\_\_\_\_\_  
Business Administrator

Certification Required   
Not Required

Rev. 10-17-12  
Long Term Tax Exemption  
N.J.S.A. 40A:20-1, et seq.  
(New Market Rate Res Rental FA)

Re: 20 Beacon Way  
Block 13601, Lot 8  
The Beacon Redevelopment Plan

**PREAMBLE**

**THIS FINANCIAL AGREEMENT**, [Agreement] is made the \_\_\_\_\_ day of \_\_, 20\_\_ by and between **BR MERCURY URBAN RENEWAL COMPANY, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at c/o Beacon Redevelopment, LLC, 4 Beacon Way, #16, Jersey City, NJ 07304 [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 Mercury Urban Renewal Company, LLC, is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 8 (formerly known as Block 1899, Lot 24), on the City's Official Tax map, more commonly known by the street address of 20 Beacon Way, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, by the adoption of Ordinance 06-158, the City of Jersey City approved a 30 year long term tax exemption for 84 market rate residential condominium units [Project] paying a service charge equal to 12% of annual gross revenue or approximately \$428,287 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the amount of \$214,143.50, to be credited against future service charge over four years ; and

**WHEREAS**, on January 3, 2007 the Financial Agreement was executed; and

**WHEREAS**, the Original Entity did not pay the Affordable Housing contribution, which was \$126,000; and

**WHEREAS**, BR Mercury Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, the New Entity is the Owner pursuant to Deed dated December 29, 2011, of certain property designated as Block 13601, Lot 8, more commonly known by the street address of 20 Beacon Way, Jersey City, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g).; and

**WHEREAS**, the New Entity plans to construct an eighteen (18) story building with approximately one hundred twenty six (126) market rate residential rental units; [Project]; and

**WHEREAS**, on \_\_\_\_\_ the Project received site plan approval from the Planning Board; and

**WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption that would convert the Project from 84 residential condominium units to 126 market rate residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%; and

**WHEREAS**, by the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_, the Municipal Council approved a long term tax exemption for the Project and authorized the execution of a Financial Agreement; and

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

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

1. the current real estate tax generates revenue of only \$20,492.85, whereas, the

Annual Service charge as estimated, will generate revenue to the City of approximately 10% of Annual Gross Revenue or \$291,853 for the first ten (10) years; and 12% of Annual Gross Revenue or \$448,262 for the last five (5) years;

2. the New Entity has paid the City the sum of \$189,000 (an increase of \$63,000 due to the increase in the number of units), as an affordable housing contribution pursuant to Ordinance 03-112;
3. it is expected that the Project will create approximately 73 new construction jobs and 6 new permanent full time jobs;
4. the project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants;
5. the Project will further the redevelopment objectives of the Beacon Redevelopment Plan, which include remediation or development of vacant property;
6. the City's Impact Analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

### **ARTICLE I - GENERAL PROVISIONS**

#### **Section 1.1 Governing Law**

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

**Section 1.2 General Definitions**

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

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

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

iii. Annual Gross Revenue Any and all revenue derived from or generated by the Project of whatever kind or amount, whether received as rent from any tenants or income or fees from third parties, including but not limited to fees or income paid or received for parking, or as user fees or for any other services. No deductions will be allowed for operating or maintenance costs, including, but not limited to gas, electric, water and sewer, other utilities, garbage removal and insurance charges, whether paid for by the landlord, tenant or a third party.

iv. Annual Service Charge - The amount the New Entity has agreed to pay the City each year for municipal services supplied to the Project, which sum is in lieu of any taxes on the

Improvements, pursuant to N.J.S.A. 40A:20-12. It shall include a payment for all annual excess profit.

v. Auditor's Report - A complete annual financial statement outlining the financial status of the Project, which shall also include a certification of Total Project Cost and clear computation of the annual Net Profit. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles and shall contain at a minimum the following: a balance sheet, a statement of income, a statement of retained earnings or changes in stockholders' equity, a statement of cash flows, descriptions of accounting policies, notes to financial statements and appropriate schedules and explanatory material results of operations, cash flows and any other items required by Law. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

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

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

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

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

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

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

seq.

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

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

xiv. Law - Law shall refer to the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1, et seq.; Executive Order of the Mayor 02-003, relating to long term tax exemption, as it may be and supplemented; Ordinance 02-075 requiring Disclosure of Lobbyist Status and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement and all other relevant Federal, State or City statutes, ordinances, resolutions, rules and regulations.

xv. Lease Up Period - Shall begin on the date of the issuance of the first Certificate of Occupancy (whether permanent or temporary) for any floor or any portion thereof. During the Lease Up Period, the Entity shall pay the sum equal to the estimated Annual Service Charge divided by the number of Units divided by 12 for each Unit for each month after that Unit has received a Certificate of Occupancy, whether the floor is actually occupied or generated revenue. The payment shall begin on the 1<sup>st</sup> day of the month following the issuance of the Certificate of Occupancy for that Floor. The Lease Up Period for the Project expires 18 months after the issuance of the first Certificate of Occupancy for any floor.

xvi. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the higher of the total taxes levied against all real property in the area covered by the Project in the last full tax year in which the area was subject to taxation, which amount the parties agree is \$20,492.85 or the estimated Service Charge.

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

(1) there shall be included in expenses: (a) all Annual Service charges paid pursuant to N.J.S.A. 40A:20-12; (b) all annual payments to the City of excess profits pursuant to N.J.S.A. 40A:20-15 or N.J.S.A. 40A:20-16; (c) an annual amount sufficient to amortize (utilizing the straight

line method-equal annual amounts) the Total Project Cost and all capital costs determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits over the term of this agreement; (d) all reasonable annual operating expenses of the New Entity and any other entity whose revenue is included in the computation of excess profits including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies and payments into repair or maintenance reserve accounts; (e) all payments of rent including but not limited to ground rent by the New Entity; (f) all debt service; and

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

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

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

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

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

its estimated Total Project Cost.

## **ARTICLE II - APPROVAL**

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

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: Block 13601, Lot 8, more commonly known by the street address 20 Beacon Way, Jersey City, and described by metes and bounds in Exhibit 1 attached hereto.

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

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

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

Entity represents that it will construct an eighteen (18) story building with approximately one hundred twenty six (126) market rate residential rental units; all of which is specifically described in the Application attached hereto as Exhibit 3.

### **Section 2.4 Construction Schedule**

The New Entity agrees to diligently undertake to commence construction and complete the Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5, and in compliance with any Redevelopment Agreement.

### **Section 2.5 Ownership, Management and Control**

The New Entity represents that it is the owner of the property upon which the Project is to be constructed. Upon construction, the New Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and any Redevelopment Agreement.

**Section 2.6 Financial Plan**

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

**Section 2.7 Good Faith Estimate of Initial Sale Prices or Rents**

The New Entity represents that its good faith projections of the initial rents and other revenue to the Project are set forth in Exhibit 7.

**ARTICLE III - DURATION OF AGREEMENT**

**Section 3.1 Term**

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of 20 years from the date of the adoption of Ordinance \_\_\_\_ on \_\_\_\_\_, 20\_\_, which approved the tax exemption or 15 years from the original date of Substantial Completion of the Project or \_\_\_\_ 20 \_\_\_\_\_. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the Project is owned by a corporation or association formed and operating under the Law.

**ARTICLE IV - ANNUAL SERVICE CHARGE**

**Section 4.1 Annual Service Charge**

In consideration of the tax exemption, the New Entity shall make the following annual payments to the City for services provided to the Project:

- i. City Service Charge: an amount equal to the greater of: the Minimum Annual Service Charge or an Annual Service Charge equal to 10% of Annual Gross Revenue or \$291,853 for the first ten (10) years; and 12% of Annual Gross Revenue or \$448,262 for the last five (5) years. The Annual Service Charge shall be billed initially based upon the New Entity's estimates of Annual Gross Revenue, attached hereto as Exhibit 6. Thereafter, the Annual Service Charge shall be adjusted in accordance with this Agreement. Notwithstanding anything to the contrary contained therein, during the Lease Up Period, the Annual Service Charge shall be prorated in accordance with Section

1.2 (xv) above.

ii. County Service Charge: an amount equal to 5% of the Municipal Annual Service Charge shall be paid to the City and remitted by the City to the County.

iii. A Minimum Annual Service Charge shall be due beginning on the effective date of this Agreement. The City and County Annual Service Charge shall be due on the first day of the month following the Substantial Completion of the Project. In the event the New Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid.

#### **Section 4.2 Staged Adjustments**

The Annual Service Charge shall be adjusted, in Stages over the term of the tax exemption in accordance with N.J.S.A. 40A:20-12(b) as follows:

i. Stage One: From the 1st day of the month following Substantial Completion until the last day of the 6th year, the Annual Service Charge shall be 10% of Annual Gross Revenue;

ii. Stage Two: Beginning on the 1<sup>st</sup> day of the 7th year following Substantial Completion until the last day of the 9th year, an amount equal to the greater of the Annual Service Charge or 20% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;

iii. Stage Three: Beginning on the 1st day of the 10th year following the Substantial Completion until the last day of the 12th year, an amount equal to the greater of the Annual Service Charge or 40% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;

iv. Stage Four: Beginning on the 1st day of the 13th year following Substantial Completion until the last day of the 14th year, an amount equal to the greater of the Annual Service Charge or 60% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.

v. Final Stage: Beginning on the 1st day of the 15th year following Substantial Completion through the date the tax exemption expires, an amount equal to the greater of the Annual Service Charge or 80% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.

### **Section 4.3 Land Tax**

The New Entity is required to pay both the Annual Service Charge and the Land Tax Payments. The New Entity is obligated to make timely Land Tax Payments, including any tax on the pre-existing improvements, in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. The New Entity shall be entitled to credit for the amount, without interest, of the Land Tax Payments made in the last four preceding quarterly installments against the Annual Service Charge. In any quarter that the New Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render the New Entity ineligible for any Land Tax Payment credit against the Annual Service Charge. No credit will be applied against the Annual Service Charge for a partial payment of Land Taxes. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. and/or declare a Default and terminate this Agreement.

### **Section 4.4 Quarterly Installments / Interest**

The New Entity expressly agrees that the Annual Service Charge shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the New Entity fails to pay the Annual Service Charge or any other charge due under this agreement, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid in full.

### **Section 4.5 Administrative Fee**

The New Entity shall also pay an annual Administrative Fee to the City in addition to the Annual Service Charge and Land Tax levy. The Administrative Fee shall be calculated as two (2%) percent of each prior year's Annual Service Charge. This fee shall be payable and due on or before December 31st of each year, and collected in the same manner as the Annual Service Charge.

### **Section 4.6 Affordable Housing Contribution and Remedies**

A. **Contribution.** The New Entity will pay the City the sum of \$189,000 or \$1,500 per unit as a contribution, which will be paid in full upon the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased.

**Section 4.7 Material Conditions**

It is expressly agreed and understood that the timely payments of Land Taxes, Minimum Annual Service Charges, Annual Service Charges, including adjustments thereto, Administrative Fees, Affordable Housing Contributions, and any interest thereon, are Material Conditions of this Agreement.

**ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT**

**Section 5.1 Project Employment and Contracting Agreement**

In order to provide City residents and businesses with certain employment and other economic related opportunities, the New Entity is subject to the terms and conditions of the Project Employment and Contracting Agreement, attached hereto as Exhibit 8.

**ARTICLE VI - CERTIFICATE OF OCCUPANCY**

**Section 6.1 Certificate of Occupancy**

It is understood and agreed that it shall be the obligation of the New Entity to obtain all Certificates of Occupancy in a timely manner so as to complete construction in accordance with the proposed construction schedule attached hereto as Exhibit 5. The failure to secure the Certificates of Occupancy shall subject the Property to full taxation for the period between the date of Substantial Completion and the date the Certificate of Occupancy is obtained.

**Section 6.2 Filing of Certificate of Occupancy**

It shall be the primary responsibility of the New Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy.

Failure of the New Entity to file such issued Certificate of Occupancy as required by the preceding paragraph, shall not militate against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by the New Entity.

**ARTICLE VII - ANNUAL REPORTS**

**Section 7.1 Accounting System**

The New Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles.

## **Section 7.2 Periodic Reports**

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the New Entity's accounting basis that the Agreement shall continue in effect, the New Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Project and such details as may relate to the financial affairs of the New Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement. The Report shall clearly identify and calculate the Net Profit for the New Entity during the previous year, the excess of which shall be paid to the City each year an excess profit is generated.

B. Total Project Cost Audit: Within ninety (90) days after Substantial Completion of the Project, the New Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, including but not limited to an audit of actual construction costs as certified by the Project architect.

C. Disclosure Statement: On the anniversary date of the execution of this Agreement, and each and every year thereafter while this agreement is in effect, the New Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, a Disclosure Statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each and such additional information as the City may request from time to time. All disclosures shall include ownership interests of the individual persons owning any corporate interest in the New Entity.

## **Section 7.3 Inspection/Audit**

The New Entity shall permit the inspection of its property, equipment, buildings and other facilities of the Project and, if deemed appropriate or necessary, any other related Entity by representatives duly authorized by the City or 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 New Entity for any year during which the tax exemption financial agreement was in full force and effect.

All costs incurred by the City to conduct a review of the New Entity's audits, including reasonable attorneys' fees if appropriate, shall be billed to the New Entity and paid to the City as part of the New Entity's Annual Service Charge. Delinquent payments shall accrue interest at the same rate as for a delinquent service charge.

## **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 New Entity shall be subject to a limitation of its profits pursuant to the provisions of N.J.S.A. 40A:20-15.

The New Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount equal to five (5%) percent of the Gross Revenue of the New 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 non-cumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of five (5%) percent of the preceding year's Gross Revenue. Pursuant to N.J.S.A. 40A:20-14(b) there is expressly excluded from the calculation of Gross Revenue and Net Profit in the determination of Excess Profit, any gain realized by the New Entity on the sale of any condominium unit, whether or not taxable under federal or state law.

### **Section 8.2 Annual Payment of Excess Net Profit**

In the event the Net Profits of the New Entity, in any year, exceeds the Allowable Net Profits for such year, then the New Entity, within one hundred and twenty (120) days after the end of the year, shall pay such excess Net Profits to the City as an additional annual service charge; provided, however, that the New Entity may maintain a reserve as determined pursuant to aforementioned paragraph 8.1. The calculation of the New Entity's Excess Net Profits shall include those project costs directly attributable to site remediation and cleanup expenses and any other costs excluded in the definition of Total Project Cost in Section 1.2 (xx) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

**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 New Entity. Within ninety (90) days after such date, the New Entity shall pay to the City the amount of the reserve, if any, maintained by it pursuant to this section and the balance of the Excess Net Profit, if any.

**ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION**

**Section 9.1 Approval of Sale**

Any 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 New 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 New Entity is not then in default of this Agreement or the Law; 4) the New Entity's obligations under this Agreement are fully assumed by the new Entity; 5) the New Entity is comprised of principals possessing substantially the same or better business reputation, financial qualifications and credit worthiness of the New Entity; and 6) the New Entity pays in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d).

Nothing herein shall prohibit any transfer of the ownership interest in the New Entity itself provided that the transfer, if greater than 10%, is disclosed to the City in the annual disclosure statement or in correspondence sent to the City in advance of the filing of the annual disclosure statement.

**Section 9.2 Transfer Application 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 New 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.

**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 amended and supplemented, but also by a Default under this Agreement. The New 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.

### **Section 10.2 Disclosure of Lobbyist Representative**

During the term of this Agreement, the New Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The New Entity's failure to comply with the Executive Order or the Ordinance 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 New Entity to conform with the terms of this Agreement or failure of the New Entity to perform any obligation imposed by the Law, beyond any applicable notice, cure or grace period.

### **Section 11.2 Cure Upon Default**

Should the New Entity be in Default, the City shall send written notice to the New Entity of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The New Entity shall have sixty (60) days, from receipt of the Default Notice, to cure any Default which shall be the sole and exclusive remedy available to the New Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

Subsequent to such sixty (60) days, or any approved extension, the City shall have the right to terminate this Agreement in accordance with Section 12.1.

Should the New Entity be in default due to a failure to pay any charges defined as Material

Conditions in Section 4.7, the New Entity shall not be subject to the default procedural remedies as provided herein but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII herein.

### **Section 11.3 Remedies Upon Default**

The City shall, among its other remedies, have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. In order to secure the full and timely payment of the Annual Service Charge, the City on its own behalf, or on behalf of the Trustee, reserves the right to prosecute an In Rem Tax Foreclosure action against the Project Area in accordance with Applicable Law, as more fully set forth in this Financial Agreement.

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the New Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided in Article XI herein, but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against the New Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

In the event of a Default on the part of the New Entity to pay any charges set forth in Article IV, the City among its other remedies, reserves the right to proceed against the New Entity's land and property, in the manner provided by the In Rem Foreclosure Act, and any act supplementary or amendatory thereof. Whenever the word taxes appear, or is applied, directly or impliedly to mean

taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this Agreement, as if the charges were taxes or municipal liens on land.

**ARTICLE XII- TERMINATION**

**Section 12.1 Termination Upon Default of the New Entity**

In the event the New Entity fails to cure or remedy the Default within the time period provided in Section 11.2, the City may terminate this Agreement upon thirty (30) days written notice to the New Entity [Notice of Termination].

**Section 12.2 Voluntary Termination by the New Entity**

The New Entity may notify the City that it will relinquish its status as a tax exempt Project, after the expiration of one year from the Substantial Completion of the Project , as of the January 1<sup>st</sup> of the year next ensuing. The Notice of Voluntary Termination must be received by the City no later than October 1<sup>st</sup> of the tax year preceding the calendar year in which the termination is to occur. As of the date so set, the tax exemption, the Annual Service Charges and the profit and dividend restrictions shall terminate. However, under no circumstances will the New Entity be entitled to any refund, in whole or in part, of any funds paid to the City to obtain the tax exemption, including but not limited to the Affordable Housing Contribution. In addition, the due date for all Affordable Housing Contribution and any other fees that the New Entity agreed to pay under this Agreement, shall be accelerated so that all fees to be paid shall be due on January 1<sup>st</sup> as a condition precedent of the voluntary termination.

**Section 12.3 Final Accounting**

Within ninety (90) days after the date of termination, whether by affirmative action of the New Entity or by virtue of the provisions of the Law or pursuant to the terms of this Agreement, the New Entity shall provide a final accounting and pay to the City the reserve, if any, pursuant to the provisions of N.J.S.A. 40A:20-13 and 15 as well as any remaining excess Net Profits. For purposes of rendering a final accounting the termination of the Agreement shall be deemed to be the end of the fiscal year for the New Entity.

**Section 12.4 Conventional Taxes**

Upon Termination or expiration of this Agreement, the tax exemption for the Project shall expire and the land and the Improvements thereon shall thereafter be assessed and conventionally

taxed according to the general law applicable to other nonexempt taxable property in the City.

### **ARTICLE XIII - DISPUTE RESOLUTION**

#### **Section 13.1 Arbitration**

In the event of a breach of the within Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court of New Jersey by an appropriate proceeding, to settle and resolve the dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. The cost for the arbitration shall be borne by the New Entity. The parties agree that the New Entity may not file an action in Superior Court or with the Arbitration Association unless the New Entity has first paid in full all charges defined in Section 4.8 as Material Conditions.

#### **Section 13.2 Appeal of Assessment**

In calculating the amount of “staged” tax adjustments otherwise due pursuant to Section 4.2 and N.J.S.A. 40A:20-12, the New Entity may file an appeal of the conventional assessment but not an appeal of the “initial assessment” used to calculate a service charge.

### **ARTICLE XIV - WAIVER**

#### **Section 14.1 Waiver**

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit the City’s right to audit or recover any amount which the City has under law, in equity, or under any provision of this Agreement.

### **ARTICLE XV - INDEMNIFICATION**

#### **Section 15.1 Defined**

It is understood and agreed that in the event the City shall be named as party defendant in any action by a third party alleging any breach, default or a violation of any of the provisions of this Agreement and/or the provisions of N.J.S.A. 40A:20-1 et seq., the New Entity shall indemnify and

hold the City harmless against any and all liability, loss, cost, expense (including reasonable attorneys' fees and costs, through trial and all stages of any appeal, including the cost of enforcing this indemnity) arising out of Agreement. In addition, the New Entity expressly waives all statutory or common law defenses or legal principles which would defeat the purposes of this indemnification. The New Entity also agrees to defend the suit at its own expense. However, the City maintains the right to intervene as a party thereto, to which intervention the New Entity consents; the expense thereof to be borne by the City.

### **ARTICLE XVI- NOTICE**

#### **Section 16.1 Certified Mail**

Any notice required hereunder to be sent by either party to the other shall be sent by certified or registered mail, return receipt requested.

#### **Section 16.2 Sent by City**

When sent by the City to the New Entity the notice shall be addressed to:

BR Mercury Urban Renewal Co., LLC  
c/o Beacon Redevelopment, LLC  
4 Beacon Way, #16  
Jersey City, NJ 07304  
Attn:

unless prior to giving of notice the New Entity shall have notified the City in writing otherwise.

In addition, provided the City is sent a formal written notice in accordance with this Agreement, of the name and address of Entity's Mortgagee, the City agrees to provide such Mortgagee with a copy of any notice required to be sent to the New Entity.

#### **Section 16.3 Sent by Entity**

When sent by the New Entity to the City, it shall be addressed to:

City of Jersey City, Office of the City Clerk  
City Hall  
280 Grove Street  
Jersey City, New Jersey 07302,

with copies sent to the Corporation Counsel, the Business Administrator, and the Tax Collector unless prior to the giving of notice, the City shall have notified the New Entity otherwise. The notice to the City shall identify the Project to which it relates, (i.e., the Urban Renewal Entity and the

Property's Block and Lot number).

## ARTICLE XVII-SEVERABILITY

### **Section 17.1 Severability**

If any term, covenant or condition of this Agreement or the Application, except a Material Condition, shall be judicially declared to be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the New Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

## ARTICLE XVIII - MISCELLANEOUS

### **Section 18.1 Construction**

This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the New Entity and the City have combined in their review and approval of same.

### **Section 18.2 Conflicts**

The parties agree that in the event of a conflict between the Application and the language contained in the Agreement, the Agreement shall govern and prevail. In the event of conflict between the Agreement and the Law, the Law shall govern and prevail.

### **Section 18.3 Oral Representations**

There have been no oral representations made by either of the parties hereto which are not

contained in this Agreement. This Agreement, the Ordinance authorizing the Agreement, and the Application constitute the entire Agreement between the parties and there shall be no modifications thereto other than by a written instrument approved and executed by both parties and delivered to each party.

**Section 18.4 Entire Document / Termination**

This Agreement and all conditions in the Ordinance of the Municipal Council approving this Agreement are incorporated in this Agreement and made a part hereof. The Financial Agreement dated January 3, 2007, is hereby terminated.

**Section 18.5 Good Faith**

In their dealings with each other, utmost good faith is required from the New Entity and the City.

**ARTICLE XIX - EXHIBITS**

**Section 19 Exhibits**

The following Exhibits are attached hereto and incorporated herein as if set forth at length herein:

1. Metes and Bounds description of the Project;
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. Good Faith Estimate of Initial Rents;
8. Project Employment and Contracting Agreement;
9. Architect's Certification of Actual Construction Costs.
10. Entity's Deed.

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

**WITNESS:**

**BR MERCURY URBAN RENEWAL  
COMPANY, LLC**

**ATTEST:**

**CITY OF JERSEY CITY**

**ROBERT BYRNE  
CITY CLERK**

**JOHN KELLY  
BUSINESS ADMINISTRATOR**



City Clerk File No. Ord. 12-150

Agenda No. 3-K 1st Reading

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



## ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-150

**TITLE: ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR ORPHEUM URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-159**

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

**WHEREAS**, The Orpheum Urban Renewal Company, L.L.C., is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 13 (formerly known as Block 1899, Lot 29), on the City's Official Tax map, more commonly known by the street address of 24 Beacon Place, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5; and

**WHEREAS**, by the adoption of Ordinance 06-159, the City of Jersey City approved a 30 year long term tax exemption for 117 market rate residential condominium units [Project] paying a service charge equal to 12% of annual gross revenue or approximately \$516,641 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the amount of \$258,320.50, to be credited against future service charge over four years; and

**WHEREAS**, on January 3, 2007 the Financial Agreement was executed; and

**WHEREAS**, the Original Entity did not pay the Affordable Housing contribution, which was \$175,500; and

**WHEREAS**, BR Orpheum Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption that would convert the Project from 117 residential condominium units to 157 market rate residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%; and

**WHEREAS**, under the new tax exemption, the service charge would be approximately \$325,561 for the first ten years and \$500,035 for the final five years; and

0 2 0 1 2 1 5 3

**ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR ORPHEUM URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-159**

**WHEREAS**, the New Entity has agreed to:

1. pay the greater of (i) the Minimum Annual Service Charge or (ii) 10% of Annual Gross Revenue or \$325,561 for the first ten (10) years; and 12% of Annual Gross Revenue or \$500,035 for the last five (5) years, and which shall be subject to statutory staged increases over the term of the tax exemption; and
2. pay an annual sum equal to 2% of each prior year's Annual Service Charge as an Administrative Fee; and
3. provide employment and other economic opportunities for City residents and businesses;
4. pay to City for remittance to Hudson County, an amount equal to 5% of the Annual Service Charge upon receipt of that charge;
5. pay the sum of \$235,500 (an increase of \$60,000 due to the increase in the number of units) to the City's Affordable Housing Trust Fund in full upon *the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased;* and

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

1. the current real estate taxes generate less revenue than the estimated Annual Service Charge of \$325,561 to the City and an additional sum equal to 5% of the Annual Service Charge to Hudson County;
2. it is expected that the Project will create approximately 68 jobs during construction and 9 new permanent jobs;
3. the New Project will stabilize and contribute to the economic growth of businesses in the surrounding area;
4. the New Project will further the overall redevelopment objectives of the Medical Center Study Area Redevelopment Plan;
5. the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

**WHEREAS**, at its meeting of August 10, 2012, the Tax Abatement Committee voted in favor of the approval of the New Entity's application for tax exemption.

ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR ORPHEUM URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-159

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

A. The application of BR Orpheum Urban Renewal Company, L.L.C., an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., a copy of which is on file in the office of the City Clerk, for Block 13601, Lot 13 (formerly known as Block 1899, Lot 29), for a new tax exemption that would convert the Project from 117 residential condominium units to 157 market rate residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%, is hereby approved.

B. The application of BR Orpheum Urban Renewal Company, 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., for a new tax exemption, is hereby approved.

C. The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement and a Project Employment and Contracting Agreement. The Financial Agreement shall include at a minimum the following terms and conditions:

1. Term: the earlier of 20 years from the adoption of the within Ordinance or 15 years from the date the project is Substantially Complete;
2. Annual Service Charge: each year the greater of:
  - (a) the Minimum Annual Service Charge or;
  - (b) 10% of Annual Gross Revenue or \$325,561 for the first ten (10) years; 12% of Annual Gross Revenue or \$500,035 for the last five (5) years, all of which shall be subject to statutory increases during the term of the tax exemption.
3. Administrative Fee: 2% of the prior year's Annual Service Charge;
4. County Payment: an additional 5% of the Annual Service Charge for remittance upon receipt to Hudson County;
5. Affordable Housing Trust Fund: \$1,500 per unit for a total of \$235,500 to be paid in full upon *the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased;*
6. Project: substantially rehabilitate, restore and construct a building to contain approximately 157 market rate residential rental units;
7. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses.

D. The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Tax Assessor and Director of the Division of Local Government Services.

E. The application is on file with the office of the City Clerk. The Financial Agreement and Project Employment shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.

F. All ordinances, specifically Ordinance 06-159, and parts of ordinances inconsistent herewith are hereby repealed.

**ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR ORPHEUM URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-159**

G. 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.

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

I. 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.

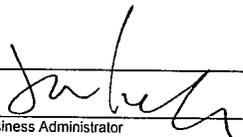
**NOTE:** All material is new; therefore underlining has been omitted. For purposes of advertising only, new matter is indicated by **bold face** and repealed matter by *italic*.

*JM/he*  
10-16-12

APPROVED AS TO LEGAL FORM

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

APPROVED: \_\_\_\_\_

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

Certification Required   
Not Required

Rev. 10-17-12  
Long Term Tax Exemption  
N.J.S.A. 40A:20-1, et seq.  
(New Market Rate Res Rental FA)

Re: 24 Beacon Place  
Block 13601, Lot 13  
The Beacon Redevelopment Plan

**PREAMBLE**

**THIS FINANCIAL AGREEMENT**, [Agreement] is made the \_\_\_\_\_ day of \_\_, 20\_\_ by and between **BR ORPHEUM URBAN RENEWAL COMPANY, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at c/o Beacon Redevelopment, LLC, 4 Beacon Way, #16, Jersey City, NJ 07304 [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 Orpheum Urban Renewal Company, LLC, is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 13 (formerly known as Block 1899, Lot 29), on the City's Official Tax map, more commonly known by the street address of 24 Beacon Place, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, by the adoption of Ordinance 06-159, the City of Jersey City approved a 30 year long term tax exemption for 117 market rate residential condominium units [Project] paying a service charge equal to 12% of annual gross revenue or approximately \$516,641 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the amount of \$258,320.50, to be credited against future service charge over four years ; and

**WHEREAS**, on January 3, 2007 the Financial Agreement was executed; and

**WHEREAS**, the Original Entity did not pay the Affordable Housing contribution, which was \$175,500; and

**WHEREAS**, BR Orpheum Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, the New Entity is the Owner pursuant to Deed dated December 29, 2011, of certain property designated as Block 13601, Lot 13, more commonly known by the street address of 24 Beacon Place, Jersey City, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g).; and

**WHEREAS**, the New Entity plans to construct an twenty one (21) story building with approximately one hundred fifty seven (157) market rate residential rental units; [Project]; and

**WHEREAS**, on \_\_\_\_\_ the Project received site plan approval from the Planning Board; and

**WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption that would convert the Project from 117 residential condominium units to 157 market rate residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%; and

**WHEREAS**, by the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_, the Municipal Council approved a long term tax exemption for the Project and authorized the execution of a Financial Agreement; and

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

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

1. the current real estate tax generates revenue of only \$25,155.42, whereas, the

Annual Service charge as estimated, will generate revenue to the City of approximately 10% of Annual Gross Revenue or \$325,561 for the first ten (10) years; and 12% of Annual Gross Revenue or \$500,035 for the last five (5) years;

2. the New Entity will pay the City the sum of \$235,500 (an increase of \$60,000 due to the increase in the number of units), as an affordable housing contribution pursuant to Ordinance 03-112;
3. it is expected that the Project will create approximately 68 new construction jobs and 9 new permanent full time jobs;
4. the project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants;
5. the Project will further the redevelopment objectives of the Beacon Redevelopment Plan, which include remediation or development of vacant property;
6. the City's Impact Analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

**ARTICLE I - GENERAL PROVISIONS**

## **Section 1.1 Governing Law**

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

## **Section 1.2 General Definitions**

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

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

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

iii. Annual Gross Revenue Any and all revenue derived from or generated by the Project of whatever kind or amount, whether received as rent from any tenants or income or fees from third parties, including but not limited to fees or income paid or received for parking, or as user fees or for any other services. No deductions will be allowed for operating or maintenance costs, including, but not limited to gas, electric, water and sewer, other utilities, garbage removal and insurance charges, whether paid for by the landlord, tenant or a third party.

iv. Annual Service Charge - The amount the New Entity has agreed to pay the City each

year for municipal services supplied to the Project, which sum is in lieu of any taxes on the Improvements, pursuant to N.J.S.A. 40A:20-12. It shall include a payment for all annual excess profit.

v. Auditor's Report - A complete annual financial statement outlining the financial status of the Project, which shall also include a certification of Total Project Cost and clear computation of the annual Net Profit. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles and shall contain at a minimum the following: a balance sheet, a statement of income, a statement of retained earnings or changes in stockholders' equity, a statement of cash flows, descriptions of accounting policies, notes to financial statements and appropriate schedules and explanatory material results of operations, cash flows and any other items required by Law. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

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

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

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

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

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

xi. In Rem Tax Foreclosure or Tax Foreclosure - A summary proceeding by which the

City may enforce a lien for taxes due and owing by tax sale, under N.J.S.A. 54:5-1 to 54:5-129 et seq.

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

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

xiv. Law - Law shall refer to the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1, et seq.; Executive Order of the Mayor 02-003, relating to long term tax exemption, as it may be and supplemented; Ordinance 02-075 requiring Disclosure of Lobbyist Status and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement and all other relevant Federal, State or City statutes, ordinances, resolutions, rules and regulations.

xv. Lease Up Period - Shall begin on the date of the issuance of the first Certificate of Occupancy (whether permanent or temporary) for any floor or any portion thereof. During the Lease Up Period, the Entity shall pay the sum equal to the estimated Annual Service Charge divided by the number of Units divided by 12 for each Unit for each month after that Unit has received a Certificate of Occupancy, whether the floor is actually occupied or generated revenue. The payment shall begin on the 1<sup>st</sup> day of the month following the issuance of the Certificate of Occupancy for that Floor. The Lease Up Period for the Project expires 18 months after the issuance of the first Certificate of Occupancy for any floor.

xvi. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the higher of the total taxes levied against all real property in the area covered by the Project in the last full tax year in which the area was subject to taxation, which amount the parties agree is \$25,155.42 or the estimated Service Charge.

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

(1) there shall be included in expenses: (a) all Annual Service charges paid pursuant to N.J.S.A. 40A:20-12; (b) all annual payments to the City of excess profits pursuant to N.J.S.A.

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

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

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

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

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

xxi. Total Project Cost - The total cost of constructing the Project through the date a Certificate(s) of Occupancy is issued for the entire Project, which categories of cost are set forth in N.J.S.A. 40A:20-3(h). There shall be from Total Project Cost the actual costs incurred by the New Entity and certified by an independent and qualified architect or engineer, which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or Federal law and any extraordinary costs incurred including the cost of demolishing structures, relocation or removal of public utilities, cost of relocating displaced residents or buildings

and the clearing of title. The New Entity agrees that final Total Project Cost shall not be less than its estimated Total Project Cost.

## **ARTICLE II - APPROVAL**

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

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: Block 13601, Lot 13, more commonly known by the street address 24 Beacon Place, Jersey City, and described by metes and bounds in Exhibit 1 attached hereto.

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

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

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

Entity represents that it will construct an twenty one (21) story building with approximately one hundred fifty seven (157) market rate residential rental units; all of which is specifically described in the Application attached hereto as Exhibit 3.

### **Section 2.4 Construction Schedule**

The New Entity agrees to diligently undertake to commence construction and complete the Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5, and in compliance with any Redevelopment Agreement.

### **Section 2.5 Ownership, Management and Control**

The New Entity represents that it is the owner of the property upon which the Project is to be constructed. Upon construction, the New Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and any Redevelopment Agreement.

**Section 2.6 Financial Plan**

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

**Section 2.7 Good Faith Estimate of Initial Sale Prices or Rents**

The New Entity represents that its good faith projections of the initial rents and other revenue to the Project are set forth in Exhibit 7.

**ARTICLE III - DURATION OF AGREEMENT**

**Section 3.1 Term**

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of 20 years from the date of the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, which approved the tax exemption or 15 years from the original date of Substantial Completion of the Project or \_\_\_\_20\_\_\_\_. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the Project is owned by a corporation or association formed and operating under the Law.

**ARTICLE IV - ANNUAL SERVICE CHARGE**

**Section 4.1 Annual Service Charge**

In consideration of the tax exemption, the New Entity shall make the following annual payments to the City for services provided to the Project:

- i. City Service Charge: an amount equal to the greater of: the Minimum Annual Service Charge or an Annual Service Charge equal to 10% of Annual Gross Revenue or \$325,561 for the first ten (10) years; and 12% of Annual Gross Revenue or \$500,035 for the last five (5) years. The Annual Service Charge shall be billed initially based upon the New Entity's estimates of Annual Gross Revenue, attached hereto as Exhibit 6. Thereafter, the Annual Service Charge shall be adjusted in accordance with this Agreement. Notwithstanding anything to the contrary contained therein, during the Lease Up Period, the Annual Service Charge shall be prorated in accordance with Section

1.2 (xv) above.

ii. County Service Charge: an amount equal to 5% of the Municipal Annual Service Charge shall be paid to the City and remitted by the City to the County.

iii. A Minimum Annual Service Charge shall be due beginning on the effective date of this Agreement. The City and County Annual Service Charge shall be due on the first day of the month following the Substantial Completion of the Project. In the event the New Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid.

#### **Section 4.2 Staged Adjustments**

The Annual Service Charge shall be adjusted, in Stages over the term of the tax exemption in accordance with N.J.S.A. 40A:20-12(b) as follows:

i. Stage One: From the 1st day of the month following Substantial Completion until the last day of the 6th year, the Annual Service Charge shall be 10% of Annual Gross Revenue;

ii. Stage Two: Beginning on the 1<sup>st</sup> day of the 7th year following Substantial Completion until the last day of the 9th year, an amount equal to the greater of the Annual Service Charge or 20% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;

iii. Stage Three: Beginning on the 1st day of the 10th year following the Substantial Completion until the last day of the 12th year, an amount equal to the greater of the Annual Service Charge or 40% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;

iv. Stage Four: Beginning on the 1st day of the 13th year following Substantial Completion until the last day of the 14th year, an amount equal to the greater of the Annual Service Charge or 60% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.

v. Final Stage: Beginning on the 1st day of the 15th year following Substantial Completion through the date the tax exemption expires, an amount equal to the greater of the Annual Service Charge or 80% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.

**Section 4.3 Land Tax**

The New Entity is required to pay both the Annual Service Charge and the Land Tax Payments. The New Entity is obligated to make timely Land Tax Payments, including any tax on the pre-existing improvements, in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. The New Entity shall be entitled to credit for the amount, without interest, of the Land Tax Payments made in the last four preceding quarterly installments against the Annual Service Charge. In any quarter that the New Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render the New Entity ineligible for any Land Tax Payment credit against the Annual Service Charge. No credit will be applied against the Annual Service Charge for a partial payment of Land Taxes. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. and/or declare a Default and terminate this Agreement.

**Section 4.4 Quarterly Installments / Interest**

The New Entity expressly agrees that the Annual Service Charge shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the New Entity fails to pay the Annual Service Charge or any other charge due under this agreement, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid in full.

**Section 4.5 Administrative Fee**

The New Entity shall also pay an annual Administrative Fee to the City in addition to the Annual Service Charge and Land Tax levy. The Administrative Fee shall be calculated as two (2%) percent of each prior year's Annual Service Charge. This fee shall be payable and due on or before December 31st of each year, and collected in the same manner as the Annual Service Charge.

**Section 4.6 Affordable Housing Contribution and Remedies**

A. **Contribution.** The New Entity will pay the City the sum of \$235,500 or \$1,500 per unit as a contribution, which will be paid in full upon the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased.

**Section 4.7 Material Conditions**

It is expressly agreed and understood that the timely payments of Land Taxes, Minimum Annual Service Charges, Annual Service Charges, including adjustments thereto, Administrative Fees, Affordable Housing Contributions, and any interest thereon, are Material Conditions of this Agreement.

**ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT**

**Section 5.1 Project Employment and Contracting Agreement**

In order to provide City residents and businesses with certain employment and other economic related opportunities, the New Entity is subject to the terms and conditions of the Project Employment and Contracting Agreement, attached hereto as Exhibit 8.

**Section 5.2 Project Labor Agreement**

The New Entity shall execute a Project Labor Agreement as required by Ordinance 07-123 as it exists or as it may be amended from time to time.

**ARTICLE VI - CERTIFICATE OF OCCUPANCY**

**Section 6.1 Certificate of Occupancy**

It is understood and agreed that it shall be the obligation of the New Entity to obtain all Certificates of Occupancy in a timely manner so as to complete construction in accordance with the proposed construction schedule attached hereto as Exhibit 5. The failure to secure the Certificates of Occupancy shall subject the Property to full taxation for the period between the date of Substantial Completion and the date the Certificate of Occupancy is obtained.

**Section 6.2 Filing of Certificate of Occupancy**

It shall be the primary responsibility of the New Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy.

Failure of the New Entity to file such issued Certificate of Occupancy as required by the preceding paragraph, shall not militate against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by the New Entity.

**ARTICLE VII - ANNUAL REPORTS**

### **Section 7.1 Accounting System**

The New Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles.

### **Section 7.2 Periodic Reports**

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the New Entity's accounting basis that the Agreement shall continue in effect, the New Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Project and such details as may relate to the financial affairs of the New Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement. The Report shall clearly identify and calculate the Net Profit for the New Entity during the previous year, the excess of which shall be paid to the City each year an excess profit is generated.

B. Total Project Cost Audit: Within ninety (90) days after Substantial Completion of the Project, the New Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, including but not limited to an audit of actual construction costs as certified by the Project architect.

C. Disclosure Statement: On the anniversary date of the execution of this Agreement, and each and every year thereafter while this agreement is in effect, the New Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, a Disclosure Statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each and such additional information as the City may request from time to time. All disclosures shall include ownership interests of the individual persons owning any corporate interest in the New Entity.

### **Section 7.3 Inspection/Audit**

The New Entity shall permit the inspection of its property, equipment, buildings and other facilities of the Project and, if deemed appropriate or necessary, any other related Entity by

representatives duly authorized by the City or 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 New Entity for any year during which the tax exemption financial agreement was in full force and effect.

All costs incurred by the City to conduct a review of the New Entity's audits, including reasonable attorneys' fees if appropriate, shall be billed to the New Entity and paid to the City as part of the New Entity's Annual Service Charge. Delinquent payments shall accrue interest at the same rate as for a delinquent service charge.

### **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 New Entity shall be subject to a limitation of its profits pursuant to the provisions of N.J.S.A. 40A:20-15.

The New Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount equal to five (5%) percent of the Gross Revenue of the New 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 non-cumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of five (5%) percent of the preceding year's Gross Revenue. Pursuant to N.J.S.A. 40A:20-14(b) there is expressly excluded from the calculation of Gross Revenue and Net Profit in the determination of Excess Profit, any gain realized by the New Entity on the sale of any condominium unit, whether or not taxable under federal or state law.

#### **Section 8.2 Annual Payment of Excess Net Profit**

In the event the Net Profits of the New Entity, in any year, exceeds the Allowable Net Profits for such year, then the New Entity, within one hundred and twenty (120) days after the end of the year, shall pay such excess Net Profits to the City as an additional annual service charge; provided, however, that the New Entity may maintain a reserve as determined pursuant to aforementioned paragraph 8.1. The calculation of the New Entity's Excess Net Profits shall include those project

costs directly attributable to site remediation and cleanup expenses and any other costs excluded in the definition of Total Project Cost in Section 1.2 (xx) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

**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 New Entity. Within ninety (90) days after such date, the New Entity shall pay to the City the amount of the reserve, if any, maintained by it pursuant to this section and the balance of the Excess Net Profit, if any.

**ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION**

**Section 9.1 Approval of Sale**

Any 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 New 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 New Entity is not then in default of this Agreement or the Law; 4) the New Entity's obligations under this Agreement are fully assumed by the new Entity; 5) the New Entity is comprised of principals possessing substantially the same or better business reputation, financial qualifications and credit worthiness of the New Entity; and 6) the New Entity pays in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d).

Nothing herein shall prohibit any transfer of the ownership interest in the New Entity itself provided that the transfer, if greater than 10%, is disclosed to the City in the annual disclosure statement or in correspondence sent to the City in advance of the filing of the annual disclosure statement.

**Section 9.2 Transfer Application 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 New 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.

## **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 amended and supplemented, but also by a Default under this Agreement. The New 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.

### **Section 10.2 Disclosure of Lobbyist Representative**

During the term of this Agreement, the New Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The New Entity's failure to comply with the Executive Order or the Ordinance 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 New Entity to conform with the terms of this Agreement or failure of the New Entity to perform any obligation imposed by the Law, beyond any applicable notice, cure or grace period.

### **Section 11.2 Cure Upon Default**

Should the New Entity be in Default, the City shall send written notice to the New Entity of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The New Entity shall have sixty (60) days, from receipt of the Default Notice, to cure any Default which shall be the sole and exclusive remedy available to the New Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

Subsequent to such sixty (60) days, or any approved extension, the City shall have the right to terminate this Agreement in accordance with Section 12.1.

Should the New Entity be in default due to a failure to pay any charges defined as Material Conditions in Section 4.7, the New Entity shall not be subject to the default procedural remedies as provided herein but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII herein.

### **Section 11.3 Remedies Upon Default**

The City shall, among its other remedies, have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. In order to secure the full and timely payment of the Annual Service Charge, the City on its own behalf, or on behalf of the Trustee, reserves the right to prosecute an In Rem Tax Foreclosure action against the Project Area in accordance with Applicable Law, as more fully set forth in this Financial Agreement.

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the New Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided in Article XI herein, but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against the New Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

In the event of a Default on the part of the New Entity to pay any charges set forth in Article IV, the City among its other remedies, reserves the right to proceed against the New Entity's land and property, in the manner provided by the In Rem Foreclosure Act, and any act supplementary or

amendatory thereof. Whenever the word taxes appear, or is applied, directly or impliedly to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this Agreement, as if the charges were taxes or municipal liens on land.

## **ARTICLE XII- TERMINATION**

### **Section 12.1 Termination Upon Default of the New Entity**

In the event the New Entity fails to cure or remedy the Default within the time period provided in Section 11.2, the City may terminate this Agreement upon thirty (30) days written notice to the New Entity [Notice of Termination].

### **Section 12.2 Voluntary Termination by the New Entity**

The New Entity may notify the City that it will relinquish its status as a tax exempt Project, after the expiration of one year from the Substantial Completion of the Project , as of the January 1<sup>st</sup> of the year next ensuing. The Notice of Voluntary Termination must be received by the City no later than October 1<sup>st</sup> of the tax year preceding the calendar year in which the termination is to occur. As of the date so set, the tax exemption, the Annual Service Charges and the profit and dividend restrictions shall terminate. However, under no circumstances will the New Entity be entitled to any refund, in whole or in part, of any funds paid to the City to obtain the tax exemption, including but not limited to the Affordable Housing Contribution. In addition, the due date for all Affordable Housing Contribution and any other fees that the New Entity agreed to pay under this Agreement, shall be accelerated so that all fees to be paid shall be due on January 1<sup>st</sup> as a condition precedent of the voluntary termination.

### **Section 12.3 Final Accounting**

Within ninety (90) days after the date of termination, whether by affirmative action of the New Entity or by virtue of the provisions of the Law or pursuant to the terms of this Agreement, the New Entity shall provide a final accounting and pay to the City the reserve, if any, pursuant to the provisions of N.J.S.A. 40A:20-13 and 15 as well as any remaining excess Net Profits. For purposes of rendering a final accounting the termination of the Agreement shall be deemed to be the end of the fiscal year for the New Entity.

### **Section 12.4 Conventional Taxes**

Upon Termination or expiration of this Agreement, the tax exemption for the Project shall

expire and the land and the Improvements thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the City.

### **ARTICLE XIII - DISPUTE RESOLUTION**

#### **Section 13.1 Arbitration**

In the event of a breach of the within Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court of New Jersey by an appropriate proceeding, to settle and resolve the dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. The cost for the arbitration shall be borne by the New Entity. The parties agree that the New Entity may not file an action in Superior Court or with the Arbitration Association unless the New Entity has first paid in full all charges defined in Section 4.8 as Material Conditions.

#### **Section 13.2 Appeal of Assessment**

In calculating the amount of “staged” tax adjustments otherwise due pursuant to Section 4.2 and N.J.S.A. 40A:20-12, the New Entity may file an appeal of the conventional assessment but not an appeal of the “initial assessment” used to calculate a service charge.

### **ARTICLE XIV - WAIVER**

#### **Section 14.1 Waiver**

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit the City’s right to audit or recover any amount which the City has under law, in equity, or under any provision of this Agreement.

### **ARTICLE XV - INDEMNIFICATION**

#### **Section 15.1 Defined**

It is understood and agreed that in the event the City shall be named as party defendant in any action by a third party alleging any breach, default or a violation of any of the provisions of this

attorneys' fees and costs, through trial and all stages of any appeal, including the cost of enforcing this indemnity) arising out of Agreement. In addition, the New Entity expressly waives all statutory or common law defenses or legal principles which would defeat the purposes of this indemnification. The New Entity also agrees to defend the suit at its own expense. However, the City maintains the right to intervene as a party thereto, to which intervention the New Entity consents; the expense thereof to be borne by the City.

## ARTICLE XVI- NOTICE

### **Section 16.1 Certified Mail**

Any notice required hereunder to be sent by either party to the other shall be sent by certified or registered mail, return receipt requested.

### **Section 16.2 Sent by City**

When sent by the City to the New Entity the notice shall be addressed to:

BR Orpheum Urban Renewal Co., LLC  
c/o Beacon Redevelopment, LLC  
4 Beacon Way, #16  
Jersey City, NJ 07304  
Attn:

unless prior to giving of notice the New Entity shall have notified the City in writing otherwise.

In addition, provided the City is sent a formal written notice in accordance with this Agreement, of the name and address of Entity's Mortgagee, the City agrees to provide such Mortgagee with a copy of any notice required to be sent to the New Entity.

### **Section 16.3 Sent by Entity**

When sent by the New Entity to the City, it shall be addressed to:

City of Jersey City, Office of the City Clerk  
City Hall  
280 Grove Street  
Jersey City, New Jersey 07302,

with copies sent to the Corporation Counsel, the Business Administrator, and the Tax Collector unless prior to the giving of notice, the City shall have notified the New Entity otherwise. The notice to the City shall identify the Project to which it relates, (i.e., the Urban Renewal Entity and the Property's Block and Lot number).

to the City shall identify the Project to which it relates, (i.e., the Urban Renewal Entity and the Property's Block and Lot number).

## ARTICLE XVII-SEVERABILITY

### **Section 17.1 Severability**

If any term, covenant or condition of this Agreement or the Application, except a Material Condition, shall be judicially declared to be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the New Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

## ARTICLE XVIII - MISCELLANEOUS

### **Section 18.1 Construction**

This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the New Entity and the City have combined in their review and approval of same.

### **Section 18.2 Conflicts**

The parties agree that in the event of a conflict between the Application and the language contained in the Agreement, the Agreement shall govern and prevail. In the event of conflict between the Agreement and the Law, the Law shall govern and prevail.

**Section 18.3 Oral Representations**

There have been no oral representations made by either of the parties hereto which are not contained in this Agreement. This Agreement, the Ordinance authorizing the Agreement, and the Application constitute the entire Agreement between the parties and there shall be no modifications thereto other than by a written instrument approved and executed by both parties and delivered to each party.

**Section 18.4 Entire Document / Termination**

This Agreement and all conditions in the Ordinance of the Municipal Council approving this Agreement are incorporated in this Agreement and made a part hereof. The Financial Agreement dated January 3, 2007, is hereby terminated.

**Section 18.5 Good Faith**

In their dealings with each other, utmost good faith is required from the New Entity and the City.

**ARTICLE XIX - EXHIBITS**

**Section 19 Exhibits**

The following Exhibits are attached hereto and incorporated herein as if set forth at length herein:

1. Metes and Bounds description of the Project;
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. Good Faith Estimate of Initial Rents;
8. Project Employment and Contracting Agreement;
9. Architect's Certification of Actual Construction Costs.
10. Entity's Deed

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

**WITNESS:**

**BR ORPHEUM URBAN RENEWAL  
COMPANY, LLC**

\_\_\_\_\_

\_\_\_\_\_

**ATTEST:**

**CITY OF JERSEY CITY**

\_\_\_\_\_  
**ROBERT BYRNE  
CITY CLERK**

\_\_\_\_\_  
**JOHN KELLY  
BUSINESS ADMINISTRATOR**

**AGREED TO AND ACKNOWLEDGED:**

**ATTEST:**

**THE BEACON ORPHEUM URBAN  
RENEWAL COMPANY, LLC**

\_\_\_\_\_

\_\_\_\_\_

City Clerk File No. Ord. 12-151

Agenda No. 3.L 1st Reading

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



## ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-151

**TITLE: ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR  
PARAMOUNT URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE  
RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-160**

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

**WHEREAS**, The Paramount Urban Renewal Company, L.L.C., is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 3 (formerly known as Block 1899, Lot 34), on the City's Official Tax map, more commonly known by the street address of 126 Clifton Place, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5; and

**WHEREAS**, by the adoption of Ordinance 06-160, the City of Jersey City approved a 30 year long term tax exemption for 148 market rate residential condominium units [Project] paying a service charge equal to 12% of annual gross revenue or approximately \$677,825 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the amount of \$338,912.50, to be credited against future service charge over four years; and

**WHEREAS**, on January 3, 2007 the Financial Agreement was executed; and

**WHEREAS**, the Original Entity did not pay the Affordable Housing contribution, which was \$222,000; and

**WHEREAS**, BR Paramount Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption that would convert the Project from 148 residential condominium units to 220 residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%; and

**WHEREAS**, under the new tax exemption, the service charge would be approximately \$495,173 for the first ten years and \$760,546 for the final five years; and

0 2 0 1 2 1 5 1

**ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR PARAMOUNT URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-160**

**WHEREAS**, the New Entity has agreed to:

1. pay the greater of (i) the Minimum Annual Service Charge or (ii) 10% of Annual Gross Revenue or \$495,173 for the first ten (10) years; and 12% of Annual Gross Revenue or \$760,546 for the last five (5) years, and which shall be subject to statutory staged increases over the term of the tax exemption; and
2. pay an annual sum equal to 2% of each prior year's Annual Service Charge as an Administrative Fee; and
3. provide employment and other economic opportunities for City residents and businesses; and
4. pay to City for remittance to Hudson County, an amount equal to 5% of the Annual Service Charge upon receipt of that charge; and
5. pay the sum of \$330,000 (an increase of \$108,000 due to the increase in the number of units) to the City's Affordable Housing Trust Fund in full upon *the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased*; and

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

1. the current real estate taxes generate less revenue than the estimated Annual Service Charge of \$495,173 to the City and an additional sum equal to 5% of the Annual Service Charge to Hudson County;
2. it is expected that the Project will create approximately 104 jobs during construction and 13 new permanent jobs;
3. the New Project will stabilize and contribute to the economic growth of businesses in the surrounding area;
4. the New Project will further the overall redevelopment objectives of the Medical Center Study Area Redevelopment Plan;
5. the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

**WHEREAS**, at its meeting of August 10, 2012, the Tax Abatement Committee voted in favor of the approval of the New Entity's application for tax exemption.

ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR PARAMOUNT URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-160

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

A. The application of BR Paramount Urban Renewal Company, L.L.C., an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., a copy of which is on file in the office of the City Clerk, for Block 13601, Lot 3 (formerly known as Block 1899, Lot 34), for a new tax exemption that would convert the Project from 148 residential condominium units to 220 residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%, is hereby approved.

B. The application of BR Paramount Urban Renewal Company, 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., for a new tax exemption, is hereby approved.

C. The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement and a Project Employment and Contracting Agreement. The Financial Agreement shall include at a minimum the following terms and conditions:

1. Term: the earlier of 20 years from the adoption of the within Ordinance or 15 years from the date the project is Substantially Complete;
2. Annual Service Charge: each year the greater of:
  - (a) the Minimum Annual Service Charge or;
  - (b) 10% of Annual Gross Revenue or \$495,173 for the first ten (10) years; 12% of Annual Gross Revenue or \$760,546 for the last five (5) years, all of which shall be subject to statutory increases during the term of the tax exemption.
3. Administrative Fee: 2% of the prior year's Annual Service Charge;
4. County Payment: an additional 5% of the Annual Service Charge for remittance upon receipt to Hudson County;
5. Affordable Housing Trust Fund: \$1,500 per unit for a total of \$330,000 to be paid in full upon *the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased;*
6. Project: substantially rehabilitate, restore and construct a building to contain approximately 220 residential rental units;
7. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses.

D. The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Tax Assessor and Director of the Division of Local Government Services.

E. The application is on file with the office of the City Clerk. The Financial Agreement and Project Employment shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.

F. All ordinances, specifically Ordinance 06-160, and parts of ordinances inconsistent herewith are hereby repealed.

ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR PARAMOUNT URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-160

G. 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.

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

I. 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  
10/16/12

~~APPROVED AS TO LEGAL FORM~~

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

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

Certification Required   
Not Required

Rev. 10-17-12  
Long Term Tax Exemption  
N.J.S.A. 40A:20-1, et seq.  
(New Market Rate Res Rental FA)

Re: 126 Clifton Place  
Block 13601, Lot 3  
The Beacon Redevelopment Plan

**PREAMBLE**

**THIS FINANCIAL AGREEMENT**, [Agreement] is made the \_\_\_\_\_ day of \_\_, 20\_\_ by and between **BR PARAMOUNT URBAN RENEWAL COMPANY, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at c/o Beacon Redevelopment, LLC, 4 Beacon Way, #16, Jersey City, NJ 07304 [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 Paramount Urban Renewal Company, LLC, is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 3 (formerly known as Block 1899, Lot 34), on the City's Official Tax map, more commonly known by the street address of 126 Clifton Place, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, by the adoption of Ordinance 06-160, the City of Jersey City approved a 30 year long term tax exemption for 148 market rate residential condominium units [Project] paying a service charge equal to 12% of annual gross revenue or approximately \$677,825 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the amount of \$338,912.50, to be credited against future service charge over four years ; and

**WHEREAS**, on January 3, 2007 the Financial Agreement was executed; and

**WHEREAS**, the Original Entity did not pay the Affordable Housing contribution, which was \$222,000; and

**WHEREAS**, BR Paramount Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, the New Entity is the Owner pursuant to Deed dated December 29, 2011, of certain property designated as Block 13601, Lot 3, more commonly known by the street address of 126 Clifton Place, Jersey City, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g).; and

**WHEREAS**, the New Entity plans to construct an twenty three (23) story building with approximately two hundred twenty (220) market rate residential rental units; [Project]; and

**WHEREAS**, on \_\_\_\_\_ the Project received site plan approval from the Planning Board; and **WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption that would convert the Project from 148 residential condominium units to 220 market rate residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%; and

**WHEREAS**, by the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, the Municipal Council approved a long term tax exemption for the Project and authorized the execution of a Financial Agreement; and

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

- A. Relative Benefits of the Project when compared to the costs:
  1. the current real estate tax generates revenue of only \$36,112.22, whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately 10% of Annual Gross Revenue or \$495,173 for the first ten

(10) years; and 12% of Annual Gross Revenue or \$760,546 for the last five (5) years;

2. the New Entity has paid the City the sum of \$330,000 (an increase of \$108,000 due to the increase in the number of units), as an affordable housing contribution pursuant to Ordinance 03-112;
3. it is expected that the Project will create approximately 104 new construction jobs and 13 new permanent full time jobs;
4. the project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants;
5. the Project will further the redevelopment objectives of the Beacon Redevelopment Plan, which include remediation or development of vacant property;
6. the City's Impact Analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

#### **ARTICLE I - GENERAL PROVISIONS**

##### **Section 1.1 Governing Law**

This Agreement shall be governed by the provisions of the Long Term Tax Exemption Law,

as amended and supplemented, N.J.S.A. 40A:20-1 et seq., Executive Order of the Mayor, 02-003, Disclosure of Lobbyist Status, Ordinance 02-075, and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement. It being expressly understood and agreed that the City expressly relies upon the facts, data, and representations contained in the Application, attached hereto as Exhibit 3, in granting this tax exemption.

## **Section 1.2 General Definitions**

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

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

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

iii. Annual Gross Revenue Any and all revenue derived from or generated by the Project of whatever kind or amount, whether received as rent from any tenants or income or fees from third parties, including but not limited to fees or income paid or received for parking, or as user fees or for any other services. No deductions will be allowed for operating or maintenance costs, including, but not limited to gas, electric, water and sewer, other utilities, garbage removal and insurance charges, whether paid for by the landlord, tenant or a third party.

iv. Annual Service Charge - The amount the New Entity has agreed to pay the City each year for municipal services supplied to the Project, which sum is in lieu of any taxes on the Improvements, pursuant to N.J.S.A. 40A:20-12. It shall include a payment for all annual excess

profit.

v. Auditor's Report - A complete annual financial statement outlining the financial status of the Project, which shall also include a certification of Total Project Cost and clear computation of the annual Net Profit. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles and shall contain at a minimum the following: a balance sheet, a statement of income, a statement of retained earnings or changes in stockholders' equity, a statement of cash flows, descriptions of accounting policies, notes to financial statements and appropriate schedules and explanatory material results of operations, cash flows and any other items required by Law. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

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

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

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

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

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

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

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

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

xiv. Law - Law shall refer to the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1, et seq.; Executive Order of the Mayor 02-003, relating to long term tax exemption, as it may be and supplemented; Ordinance 02-075 requiring Disclosure of Lobbyist Status and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement and all other relevant Federal, State or City statutes, ordinances, resolutions, rules and regulations.

xv. Lease Up Period - Shall begin on the date of the issuance of the first Certificate of Occupancy (whether permanent or temporary) for any floor or any portion thereof. During the Lease Up Period, the Entity shall pay the sum equal to the estimated Annual Service Charge divided by the number of Units divided by 12 for each Unit for each month after that Unit has received a Certificate of Occupancy, whether the floor is actually occupied or generated revenue. The payment shall begin on the 1<sup>st</sup> day of the month following the issuance of the Certificate of Occupancy for that Floor. The Lease Up Period for the Project expires 18 months after the issuance of the first Certificate of Occupancy for any floor.

xvi. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the higher of the total taxes levied against all real property in the area covered by the Project in the last full tax year in which the area was subject to taxation, which amount the parties agree is \$36,112.22 or the estimated Service Charge.

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

(1) there shall be included in expenses: (a) all Annual Service charges paid pursuant to N.J.S.A. 40A:20-12; (b) all annual payments to the City of excess profits pursuant to N.J.S.A. 40A:20-15 or N.J.S.A. 40A:20-16; (c) an annual amount sufficient to amortize (utilizing the straight line method-equal annual amounts) the Total Project Cost and all capital costs determined in

accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits over the term of this agreement; (d) all reasonable annual operating expenses of the New Entity and any other entity whose revenue is included in the computation of excess profits including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies and payments into repair or maintenance reserve accounts; (e) all payments of rent including but not limited to ground rent by the New Entity; (f) all debt service; and

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

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

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

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

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

## **ARTICLE II - APPROVAL**

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

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: Block 13601, Lot 3, more commonly known by the street address 126 Clifton Place, Jersey City, and described by metes and bounds in Exhibit 1 attached hereto.

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

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

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

Entity represents that it will construct an twenty three (23) story building with approximately two hundred twenty (220) market rate residential rental units; all of which is specifically described in the Application attached hereto as Exhibit 3.

### **Section 2.4 Construction Schedule**

The New Entity agrees to diligently undertake to commence construction and complete the Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5, and in compliance with any Redevelopment Agreement.

### **Section 2.5 Ownership, Management and Control**

The New Entity represents that it is the owner of the property upon which the Project is to be constructed. Upon construction, the New Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and any Redevelopment Agreement.

### **Section 2.6 Financial Plan**

The New Entity represents that the Improvements shall be financed in accordance with the

Financial Plan attached hereto as Exhibit 6. The Plan sets forth a good faith estimate of Total Project Cost, the amortization rate on the Total Project Cost, the source of funds, the interest rates to be paid on construction financing, the source and amount of paid-in capital, and the terms of any mortgage amortization.

**Section 2.7 Good Faith Estimate of Initial Sale Prices or Rents**

The New Entity represents that its good faith projections of the initial rents and other revenue to the Project are set forth in Exhibit 7.

**ARTICLE III - DURATION OF AGREEMENT**

**Section 3.1 Term**

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of 20 years from the date of the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, which approved the tax exemption or 15 years from the original date of Substantial Completion of the Project or \_\_\_\_20\_\_\_\_. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the Project is owned by a corporation or association formed and operating under the Law.

**ARTICLE IV - ANNUAL SERVICE CHARGE**

**Section 4.1 Annual Service Charge**

In consideration of the tax exemption, the New Entity shall make the following annual payments to the City for services provided to the Project:

- i. City Service Charge: an amount equal to the greater of: the Minimum Annual Service Charge or an Annual Service Charge equal to 10% of Annual Gross Revenue or \$495,173 for the first ten (10) years; and 12% of Annual Gross Revenue or \$760,546 for the last five (5) years. The Annual Service Charge shall be billed initially based upon the New Entity's estimates of Annual Gross Revenue, attached hereto as Exhibit 6. Thereafter, the Annual Service Charge shall be adjusted in accordance with this Agreement. Notwithstanding anything to the contrary contained therein, during the Lease Up Period, the Annual Service Charge shall be prorated in accordance with Section 1.2 (xv) above.
- ii. County Service Charge: an amount equal to 5% of the Municipal Annual Service

Charge shall be paid to the City and remitted by the City to the County.

iii. A Minimum Annual Service Charge shall be due beginning on the effective date of this Agreement. The City and County Annual Service Charge shall be due on the first day of the month following the Substantial Completion of the Project. In the event the New Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid.

#### **Section 4.2 Staged Adjustments**

The Annual Service Charge shall be adjusted, in Stages over the term of the tax exemption in accordance with N.J.S.A. 40A:20-12(b) as follows:

i. Stage One: From the 1st day of the month following Substantial Completion until the last day of the 6th year, the Annual Service Charge shall be 10% of Annual Gross Revenue;

ii. Stage Two: Beginning on the 1<sup>st</sup> day of the 7th year following Substantial Completion until the last day of the 9th year, an amount equal to the greater of the Annual Service Charge or 20% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;

iii. Stage Three: Beginning on the 1st day of the 10th year following the Substantial Completion until the last day of the 12th year, an amount equal to the greater of the Annual Service Charge or 40% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;

iv. Stage Four: Beginning on the 1st day of the 13th year following Substantial Completion until the last day of the 14th year, an amount equal to the greater of the Annual Service Charge or 60% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.

v. Final Stage: Beginning on the 1st day of the 15th year following Substantial Completion through the date the tax exemption expires, an amount equal to the greater of the Annual Service Charge or 80% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.

#### **Section 4.3 Land Tax**

The New Entity is required to pay both the Annual Service Charge and the Land Tax

Payments. The New Entity is obligated to make timely Land Tax Payments, including any tax on the pre-existing improvements, in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. The New Entity shall be entitled to credit for the amount, without interest, of the Land Tax Payments made in the last four preceding quarterly installments against the Annual Service Charge. In any quarter that the New Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render the New Entity ineligible for any Land Tax Payment credit against the Annual Service Charge. No credit will be applied against the Annual Service Charge for a partial payment of Land Taxes. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. and/or declare a Default and terminate this Agreement.

**Section 4.4 Quarterly Installments / Interest**

The New Entity expressly agrees that the Annual Service Charge shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the New Entity fails to pay the Annual Service Charge or any other charge due under this agreement, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid in full.

**Section 4.5 Administrative Fee**

The New Entity shall also pay an annual Administrative Fee to the City in addition to the Annual Service Charge and Land Tax levy. The Administrative Fee shall be calculated as two (2%) percent of each prior year's Annual Service Charge. This fee shall be payable and due on or before December 31st of each year, and collected in the same manner as the Annual Service Charge.

**Section 4.6 Affordable Housing Contribution and Remedies**

A. **Contribution.** The New Entity will pay the City the sum of \$330,000 or \$1,500 per unit as a contribution, which will be paid in full upon the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased.

**Section 4.7 Material Conditions**

It is expressly agreed and understood that the timely payments of Land Taxes, Minimum

Annual Service Charges, Annual Service Charges, including adjustments thereto, Administrative Fees, Affordable Housing Contributions, and any interest thereon, are Material Conditions of this Agreement.

#### **ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT**

##### **Section 5.1 Project Employment and Contracting Agreement**

In order to provide City residents and businesses with certain employment and other economic related opportunities, the New Entity is subject to the terms and conditions of the Project Employment and Contracting Agreement, attached hereto as Exhibit 8.

##### **Section 5.2 Project Labor Agreement**

The New Entity shall execute a Project Labor Agreement as required by Ordinance 07-123 as it exists or as it may be amended from time to time.

#### **ARTICLE VI - CERTIFICATE OF OCCUPANCY**

##### **Section 6.1 Certificate of Occupancy**

It is understood and agreed that it shall be the obligation of the New Entity to obtain all Certificates of Occupancy in a timely manner so as to complete construction in accordance with the proposed construction schedule attached hereto as Exhibit 5. The failure to secure the Certificates of Occupancy shall subject the Property to full taxation for the period between the date of Substantial Completion and the date the Certificate of Occupancy is obtained.

##### **Section 6.2 Filing of Certificate of Occupancy**

It shall be the primary responsibility of the New Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy.

Failure of the New Entity to file such issued Certificate of Occupancy as required by the preceding paragraph, shall not militate against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by the New Entity.

#### **ARTICLE VII - ANNUAL REPORTS**

##### **Section 7.1 Accounting System**

The New Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles.

## **Section 7.2 Periodic Reports**

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the New Entity's accounting basis that the Agreement shall continue in effect, the New Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Project and such details as may relate to the financial affairs of the New Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement. The Report shall clearly identify and calculate the Net Profit for the New Entity during the previous year, the excess of which shall be paid to the City each year an excess profit is generated.

B. Total Project Cost Audit: Within ninety (90) days after Substantial Completion of the Project, the New Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, including but not limited to an audit of actual construction costs as certified by the Project architect.

C. Disclosure Statement: On the anniversary date of the execution of this Agreement, and each and every year thereafter while this agreement is in effect, the New Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, a Disclosure Statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each and such additional information as the City may request from time to time. All disclosures shall include ownership interests of the individual persons owning any corporate interest in the New Entity.

## **Section 7.3 Inspection/Audit**

The New Entity shall permit the inspection of its property, equipment, buildings and other facilities of the Project and, if deemed appropriate or necessary, any other related Entity by representatives duly authorized by the City or 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 New Entity for any year during which the tax exemption financial agreement was in full force and effect.

All costs incurred by the City to conduct a review of the New Entity's audits, including reasonable attorneys' fees if appropriate, shall be billed to the New Entity and paid to the City as part of the New Entity's Annual Service Charge. Delinquent payments shall accrue interest at the same rate as for a delinquent service charge.

## **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 New Entity shall be subject to a limitation of its profits pursuant to the provisions of N.J.S.A. 40A:20-15.

The New Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount equal to five (5%) percent of the Gross Revenue of the New 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 non-cumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of five (5%) percent of the preceding year's Gross Revenue. Pursuant to N.J.S.A. 40A:20-14(b) there is expressly excluded from the calculation of Gross Revenue and Net Profit in the determination of Excess Profit, any gain realized by the New Entity on the sale of any condominium unit, whether or not taxable under federal or state law.

### **Section 8.2 Annual Payment of Excess Net Profit**

In the event the Net Profits of the New Entity, in any year, exceeds the Allowable Net Profits for such year, then the New Entity, within one hundred and twenty (120) days after the end of the year, shall pay such excess Net Profits to the City as an additional annual service charge; provided, however, that the New Entity may maintain a reserve as determined pursuant to aforementioned paragraph 8.1. The calculation of the New Entity's Excess Net Profits shall include those project costs directly attributable to site remediation and cleanup expenses and any other costs excluded in the definition of Total Project Cost in Section 1.2 (xx) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

**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 New Entity. Within ninety (90) days after such date, the New Entity shall pay to the City the amount of the reserve, if any, maintained by it pursuant to this section and the balance of the Excess Net Profit, if any.

**ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION**

**Section 9.1 Approval of Sale**

Any 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 New 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 New Entity is not then in default of this Agreement or the Law; 4) the New Entity's obligations under this Agreement are fully assumed by the new Entity; 5) the New Entity is comprised of principals possessing substantially the same or better business reputation, financial qualifications and credit worthiness of the New Entity; and 6) the New Entity pays in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d).

Nothing herein shall prohibit any transfer of the ownership interest in the New Entity itself provided that the transfer, if greater than 10%, is disclosed to the City in the annual disclosure statement or in correspondence sent to the City in advance of the filing of the annual disclosure statement.

**Section 9.2 Transfer Application 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 New 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.

**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 amended and supplemented, but also by a Default under this Agreement. The New 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.

### **Section 10.2 Disclosure of Lobbyist Representative**

During the term of this Agreement, the New Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The New Entity's failure to comply with the Executive Order or the Ordinance 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 New Entity to conform with the terms of this Agreement or failure of the New Entity to perform any obligation imposed by the Law, beyond any applicable notice, cure or grace period.

### **Section 11.2 Cure Upon Default**

Should the New Entity be in Default, the City shall send written notice to the New Entity of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The New Entity shall have sixty (60) days, from receipt of the Default Notice, to cure any Default which shall be the sole and exclusive remedy available to the New Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

Subsequent to such sixty (60) days, or any approved extension, the City shall have the right to terminate this Agreement in accordance with Section 12.1.

Should the New Entity be in default due to a failure to pay any charges defined as Material Conditions in Section 4.7, the New Entity shall not be subject to the default procedural remedies as

provided herein but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII herein.

### **Section 11.3 Remedies Upon Default**

The City shall, among its other remedies, have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. In order to secure the full and timely payment of the Annual Service Charge, the City on its own behalf, or on behalf of the Trustee, reserves the right to prosecute an In Rem Tax Foreclosure action against the Project Area in accordance with Applicable Law, as more fully set forth in this Financial Agreement.

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the New Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided in Article XI herein, but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against the New Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

In the event of a Default on the part of the New Entity to pay any charges set forth in Article IV, the City among its other remedies, reserves the right to proceed against the New Entity's land and property, in the manner provided by the In Rem Foreclosure Act, and any act supplementary or amendatory thereof. Whenever the word taxes appear, or is applied, directly or impliedly to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this

Agreement, as if the charges were taxes or municipal liens on land.

## **ARTICLE XII- TERMINATION**

### **Section 12.1 Termination Upon Default of the New Entity**

In the event the New Entity fails to cure or remedy the Default within the time period provided in Section 11.2, the City may terminate this Agreement upon thirty (30) days written notice to the New Entity [Notice of Termination].

### **Section 12.2 Voluntary Termination by the New Entity**

The New Entity may notify the City that it will relinquish its status as a tax exempt Project, after the expiration of one year from the Substantial Completion of the Project , as of the January 1<sup>st</sup> of the year next ensuing. The Notice of Voluntary Termination must be received by the City no later than October 1<sup>st</sup> of the tax year preceding the calendar year in which the termination is to occur. As of the date so set, the tax exemption, the Annual Service Charges and the profit and dividend restrictions shall terminate. However, under no circumstances will the New Entity be entitled to any refund, in whole or in part, of any funds paid to the City to obtain the tax exemption, including but not limited to the Affordable Housing Contribution. In addition, the due date for all Affordable Housing Contribution and any other fees that the New Entity agreed to pay under this Agreement, shall be accelerated so that all fees to be paid shall be due on January 1<sup>st</sup> as a condition precedent of the voluntary termination.

### **Section 12.3 Final Accounting**

Within ninety (90) days after the date of termination, whether by affirmative action of the New Entity or by virtue of the provisions of the Law or pursuant to the terms of this Agreement, the New Entity shall provide a final accounting and pay to the City the reserve, if any, pursuant to the provisions of N.J.S.A. 40A:20-13 and 15 as well as any remaining excess Net Profits. For purposes of rendering a final accounting the termination of the Agreement shall be deemed to be the end of the fiscal year for the New Entity.

### **Section 12.4 Conventional Taxes**

Upon Termination or expiration of this Agreement, the tax exemption for the Project shall expire and the land and the Improvements thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the City.

## ARTICLE XIII - DISPUTE RESOLUTION

### **Section 13.1 Arbitration**

In the event of a breach of the within Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court of New Jersey by an appropriate proceeding, to settle and resolve the dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. The cost for the arbitration shall be borne by the New Entity. The parties agree that the New Entity may not file an action in Superior Court or with the Arbitration Association unless the New Entity has first paid in full all charges defined in Section 4.8 as Material Conditions.

### **Section 13.2 Appeal of Assessment**

In calculating the amount of “staged” tax adjustments otherwise due pursuant to Section 4.2 and N.J.S.A. 40A:20-12, the New Entity may file an appeal of the conventional assessment but not an appeal of the “initial assessment” used to calculate a service charge.

## ARTICLE XIV - WAIVER

### **Section 14.1 Waiver**

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit the City’s right to audit or recover any amount which the City has under law, in equity, or under any provision of this Agreement.

## ARTICLE XV - INDEMNIFICATION

### **Section 15.1 Defined**

It is understood and agreed that in the event the City shall be named as party defendant in any action by a third party alleging any breach, default or a violation of any of the provisions of this Agreement and/or the provisions of N.J.S.A. 40A:20-1 et seq., the New Entity shall indemnify and hold the City harmless against any and all liability, loss, cost, expense (including reasonable

right to intervene as a party thereto, to which intervention the New Entity consents; the expense thereof to be borne by the City.

## ARTICLE XVI- NOTICE

### **Section 16.1 Certified Mail**

Any notice required hereunder to be sent by either party to the other shall be sent by certified or registered mail, return receipt requested.

### **Section 16.2 Sent by City**

When sent by the City to the New Entity the notice shall be addressed to:

BR Paramount Urban Renewal Co., LLC  
c/o Beacon Redevelopment, LLC  
4 Beacon Way, #16  
Jersey City, NJ 07304  
Attn:

unless prior to giving of notice the New Entity shall have notified the City in writing otherwise.

In addition, provided the City is sent a formal written notice in accordance with this Agreement, of the name and address of Entity's Mortgagee, the City agrees to provide such Mortgagee with a copy of any notice required to be sent to the New Entity.

### **Section 16.3 Sent by Entity**

When sent by the New Entity to the City, it shall be addressed to:

City of Jersey City, Office of the City Clerk  
City Hall  
280 Grove Street  
Jersey City, New Jersey 07302,

with copies sent to the Corporation Counsel, the Business Administrator, and the Tax Collector unless prior to the giving of notice, the City shall have notified the New Entity otherwise. The notice to the City shall identify the Project to which it relates, (i.e., the Urban Renewal Entity and the Property's Block and Lot number).

## ARTICLE XVII-SEVERABILITY

### **Section 17.1 Severability**

If any term, covenant or condition of this Agreement or the Application, except a Material Condition, shall be judicially declared to be invalid or unenforceable, the remainder of this

## ARTICLE XVII-SEVERABILITY

### **Section 17.1 Severability**

If any term, covenant or condition of this Agreement or the Application, except a Material Condition, shall be judicially declared to be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the New Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

## ARTICLE XVIII - MISCELLANEOUS

### **Section 18.1 Construction**

This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the New Entity and the City have combined in their review and approval of same.

### **Section 18.2 Conflicts**

The parties agree that in the event of a conflict between the Application and the language contained in the Agreement, the Agreement shall govern and prevail. In the event of conflict between the Agreement and the Law, the Law shall govern and prevail.

### **Section 18.3 Oral Representations**

There have been no oral representations made by either of the parties hereto which are not contained in this Agreement. This Agreement, the Ordinance authorizing the Agreement, and the

Application constitute the entire Agreement between the parties and there shall be no modifications thereto other than by a written instrument approved and executed by both parties and delivered to each party.

**Section 18.4 Entire Document / Termination**

This Agreement and all conditions in the Ordinance of the Municipal Council approving this Agreement are incorporated in this Agreement and made a part hereof. The Financial Agreement dated January 3, 2007, is hereby terminated.

**Section 18.5 Good Faith**

In their dealings with each other, utmost good faith is required from the New Entity and the City.

**ARTICLE XIX - EXHIBITS**

**Section 19 Exhibits**

The following Exhibits are attached hereto and incorporated herein as if set forth at length herein:

1. Metes and Bounds description of the Project;
2. Ordinance of the City authorizing the execution of this Agreement;
3. The Application with Exhibits;
4. Certificate of the New Entity;
5. Estimated Construction Schedule;
6. The Financial Plan for the undertaking of the Project;
7. Good Faith Estimate of Initial Rents;
8. Project Employment and Contracting Agreement;
9. Architect's Certification of Actual Construction Costs;
10. Entity's Deed ;

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

**WITNESS:**

**BR PARAMOUNT URBAN RENEWAL  
COMPANY, LLC**

\_\_\_\_\_

\_\_\_\_\_

**ATTEST:**

**CITY OF JERSEY CITY**

\_\_\_\_\_  
**ROBERT BYRNE**  
**CITY CLERK**

\_\_\_\_\_  
**JOHN KELLY**  
**BUSINESS ADMINISTRATOR**

**AGREED TO AND ACKNOWLEDGED:**

**ATTEST:**

**THE BEACON PARAMOUNT URBAN  
RENEWAL COMPANY, LLC**

\_\_\_\_\_

\_\_\_\_\_

City Clerk File No. Ord. 12-152

Agenda No. 3.M 1st Reading

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



## ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-152

**TITLE: ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR TOWER URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-161**

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

**WHEREAS**, The Tower Urban Renewal Company, L.L.C., is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 17 (formerly known as Block 1899, Lot 32), on the City's Official Tax map, more commonly known by the street address of 56 Beacon Place, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5; and

**WHEREAS**, by the adoption of Ordinance 06-161, the City of Jersey City approved a 30 year long term tax exemption for 90 market rate residential condominium units [Project] paying a service charge equal to 12% of annual gross revenue or approximately \$429,935 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the amount of \$214,967.50, to be credited against future service charge over four years; and

**WHEREAS**, on January 3, 2007 the Financial Agreement was executed; and

**WHEREAS**, the Original Entity did not pay the Affordable Housing contribution, which was \$135,000; and

**WHEREAS**, BR Tower Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval of a new tax exemption that would convert the Project from 90 residential condominium units to 120 residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%; and

**ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR TOWER URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-161**

**WHEREAS**, under the new tax exemption, the service charge would be approximately \$234,452 for the first ten years and \$304,976 for the final five years; and

**WHEREAS**, the New Entity has agreed to:

1. pay the greater of (i) the Minimum Annual Service Charge or (ii) 10% of Annual Gross Revenue or \$234,452 for the first ten (10) years; and 12% of Annual Gross Revenue or \$304,976 for the last five (5) years, and which shall be subject to statutory staged increases over the term of the tax exemption; and
2. pay an annual sum equal to 2% of each prior year's Annual Service Charge as an Administrative Fee; and
3. provide employment and other economic opportunities for City residents and businesses;
4. pay to City for remittance to Hudson County, an amount equal to 5% of the Annual Service Charge upon receipt of that charge;
5. pay the sum of \$180,000 (an increase of \$45,000 due to the increase in the number of units) to the City's Affordable Housing Trust Fund in full upon *the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased;* and

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

1. the current real estate taxes generate less revenue than the estimated Annual Service Charge of \$234,452 to the City and an additional sum equal to 5% of the Annual Service Charge to Hudson County;
2. it is expected that the Project will create approximately 62 jobs during construction and 7 new permanent jobs;
3. the New Project will stabilize and contribute to the economic growth of businesses in the surrounding area;
4. the New Project will further the overall redevelopment objectives of the Medical Center Study Area Redevelopment Plan;
5. the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR TOWER URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-161

**WHEREAS**, at its meeting of August 10, 2012, the Tax Abatement Committee voted in favor of the approval of the New Entity's application for tax exemption.

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

A. The application of BR Tower Urban Renewal Company, L.L.C., an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., a copy of which is on file in the office of the City Clerk, for Block 13601, Lot 17 (formerly known as Block 1899, Lot 32), for a new tax exemption that would convert the Project from 90 residential condominium units to 120 residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%, is hereby approved.

B. The application of BR Tower Urban Renewal Company, 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., for a new tax exemption, is hereby approved.

C. The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement and a Project Employment and Contracting Agreement. The Financial Agreement shall include at a minimum the following terms and conditions:

1. Term: the earlier of 20 years from the adoption of the within Ordinance or 15 years from the date the project is Substantially Complete;
2. Annual Service Charge: each year the greater of:
  - (a) the Minimum Annual Service Charge or;
  - (b) 10% of Annual Gross Revenue or \$234,452 for the first ten (10) years; 12% of Annual Gross Revenue or \$304,976 for the last five (5) years, all of which shall be subject to statutory increases during the term of the tax exemption.
3. Administrative Fee: 2% of the prior year's Annual Service Charge;
4. County Payment: an additional 5% of the Annual Service Charge for remittance upon receipt to Hudson County;
5. Affordable Housing Trust Fund: \$1,500 per unit for a total of \$180,000 to be paid in full upon *the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased;*
6. Project: substantially rehabilitate, restore and construct a building to contain approximately 120 residential rental units;
7. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses.

D. The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Tax Assessor and Director of the Division of Local Government Services.

E. The application is on file with the office of the City Clerk. The Financial Agreement and Project Employment shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.

**ORDINANCE 1) APPROVING A 15 YEAR TAX EXEMPTION FOR BR TOWER URBAN RENEWAL COMPANY, LLC, FOR A MARKET RATE RESIDENTIAL RENTAL PROJECT; AND 2) REPEALING ORDINANCE 06-161**

F. All ordinances, specifically Ordinance 06-161, and parts of ordinances inconsistent herewith are hereby repealed.

G. 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.

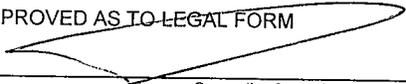
H. This ordinance shall take effect at the time and in the manner provided by law.

I. 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*.

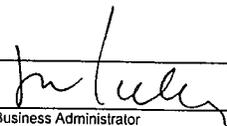
*JM/he*  
10/16/12

APPROVED AS TO LEGAL FORM

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

APPROVED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

  
Business Administrator

Certification Required

Not Required

Rev. 10-17-12  
Long Term Tax Exemption  
N.J.S.A. 40A:20-1, et seq.  
(New Market Rate Res Rental FA)

Re: 56 Beacon Place  
Block 13601, Lot 17  
The Beacon Redevelopment Plan

**PREAMBLE**

**THIS FINANCIAL AGREEMENT**, [Agreement] is made the \_\_\_\_\_ day of \_\_, 20\_\_ by and between **BR TOWER URBAN RENEWAL COMPANY, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at c/o Beacon Redevelopment, LLC, 4 Beacon Way, #16, Jersey City, NJ 07304 [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 Tower Urban Renewal Company, LLC, is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Original Entity]; and

**WHEREAS**, the Original Entity owned certain property known as Block 13601, Lot 17 (formerly known as Block 1899, Lot 32), on the City's Official Tax map, more commonly known by the street address of 56 Beacon Place, and more specifically described by metes and bounds, in the application [Property]; and

**WHEREAS**, by the adoption of Ordinance 06-161, the City of Jersey City approved a 30 year long term tax exemption for 90 market rate residential condominium units [Project] paying a service charge equal to 12% of annual gross revenue or approximately \$429,935 each year; and

**WHEREAS**, in addition, the Original Entity agreed to prepay its service charge in the amount of \$214,967.50, to be credited against future service charge over four years ; and

**WHEREAS**, on January 3, 2007 the Financial Agreement was executed; and

**WHEREAS**, the Original Entity did not pay the Affordable Housing contribution, which was \$135,000; and

**WHEREAS**, BR Tower Urban Renewal Company, LLC, is an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [New Entity], that purchased the Project by a deed dated December 29, 2011; and

**WHEREAS**, the New Entity is the Owner pursuant to Deed dated December 29, 2011, of certain property designated as Block 13601, Lot 17, more commonly known by the street address of 56 Beacon Place, Jersey City, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement; and

**WHEREAS**, the Property is located within the Medical Center Study Area Redevelopment Plan, now known as The Beacon Redevelopment Plan, as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g); and

**WHEREAS**, the New Entity plans to construct an twenty one (21) story building with approximately one hundred twenty (120) market rate residential rental units; [Project]; and

**WHEREAS**, on \_\_\_\_\_ the Project received site plan approval from the Planning Board; and **WHEREAS**, by an application dated August 2, 2012, the Original Entity and New Entity sought the City's approval for a new tax exemption that would convert the Project from 90 residential condominium units to 120 market rate residential rental units; reduce the original term of the tax exemption from 30 to 15 years, re-set the term and reduce the service charge for the first 10 years only, from 12% to 10%; and

**WHEREAS**, by the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_, the Municipal Council approved a long term tax exemption for the Project and authorized the execution of a Financial Agreement; and

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

- A. Relative Benefits of the Project when compared to the costs:
  1. the current real estate tax generates revenue of only \$31,249, whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately 10% of Annual Gross Revenue or \$234,452 for the first ten (10) years; and 12% of Annual Gross Revenue or \$304,976 for the last five

(5) years;

2. the New Entity has paid the City the sum of \$180,000 (an increase of \$45,000 due to the increase in the number of units), as an affordable housing contribution pursuant to Ordinance 03-112;
3. it is expected that the Project will create approximately 62 new construction jobs and 7 new permanent full time jobs;
4. the project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants;
5. the Project will further the redevelopment objectives of the Beacon Redevelopment Plan, which include remediation or development of vacant property;
6. the City's Impact Analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

### **ARTICLE I - GENERAL PROVISIONS**

#### **Section 1.1 Governing Law**

This Agreement shall be governed by the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., Executive Order of the Mayor, 02-003,

Disclosure of Lobbyist Status, Ordinance 02-075, and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement. It being expressly understood and agreed that the City expressly relies upon the facts, data, and representations contained in the Application, attached hereto as Exhibit 3, in granting this tax exemption.

## **Section 1.2 General Definitions**

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

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

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

iii. Annual Gross Revenue Any and all revenue derived from or generated by the Project of whatever kind or amount, whether received as rent from any tenants or income or fees from third parties, including but not limited to fees or income paid or received for parking, or as user fees or for any other services. No deductions will be allowed for operating or maintenance costs, including, but not limited to gas, electric, water and sewer, other utilities, garbage removal and insurance charges, whether paid for by the landlord, tenant or a third party.

iv. Annual Service Charge - The amount the New Entity has agreed to pay the City each year for municipal services supplied to the Project, which sum is in lieu of any taxes on the Improvements, pursuant to N.J.S.A. 40A:20-12. It shall include a payment for all annual excess profit.

v. Auditor's Report - A complete annual financial statement outlining the financial status of the Project, which shall also include a certification of Total Project Cost and clear computation of the annual Net Profit. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles and shall contain at a minimum the following: a balance sheet, a statement of income, a statement of retained earnings or changes in stockholders' equity, a statement of cash flows, descriptions of accounting policies, notes to financial statements and appropriate schedules and explanatory material results of operations, cash flows and any other items required by Law. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

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

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

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

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

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

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

xii. Land Taxes - The amount of taxes assessed on the value of land, on which the project

is located and, if applicable, taxes on any pre-existing improvements. Land Taxes are not exempt; however, Land Taxes are applied as a credit against the Annual Service Charge.

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

xiv. Law - Law shall refer to the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1, et seq.; Executive Order of the Mayor 02-003, relating to long term tax exemption, as it may be and supplemented; Ordinance 02-075 requiring Disclosure of Lobbyist Status and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement and all other relevant Federal, State or City statutes, ordinances, resolutions, rules and regulations.

xv. Lease Up Period - Shall begin on the date of the issuance of the first Certificate of Occupancy (whether permanent or temporary) for any floor or any portion thereof. During the Lease Up Period, the Entity shall pay the sum equal to the estimated Annual Service Charge divided by the number of Units divided by 12 for each Unit for each month after that Unit has received a Certificate of Occupancy, whether the floor is actually occupied or generated revenue. The payment shall begin on the 1<sup>st</sup> day of the month following the issuance of the Certificate of Occupancy for that Floor. The Lease Up Period for the Project expires 18 months after the issuance of the first Certificate of Occupancy for any floor.

xvi. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the higher of the total taxes levied against all real property in the area covered by the Project in the last full tax year in which the area was subject to taxation, which amount the parties agree is \$31,249 or the estimated Service Charge.

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

(1) there shall be included in expenses: (a) all Annual Service charges paid pursuant to N.J.S.A. 40A:20-12; (b) all annual payments to the City of excess profits pursuant to N.J.S.A. 40A:20-15 or N.J.S.A. 40A:20-16; (c) an annual amount sufficient to amortize (utilizing the straight line method-equal annual amounts) the Total Project Cost and all capital costs determined in accordance with generally accepted accounting principles, of any other entity whose revenue is

included in the computation of excess profits over the term of this agreement; (d) all reasonable annual operating expenses of the New Entity and any other entity whose revenue is included in the computation of excess profits including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies and payments into repair or maintenance reserve accounts; (e) all payments of rent including but not limited to ground rent by the New Entity; (f) all debt service; and

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

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

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

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

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

## **ARTICLE II - APPROVAL**

**Section 2.1 Approval of Tax Exemption**

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: Block 13601, Lot 17, more commonly known by the street address 56 Beacon Place, Jersey City, and described by metes and bounds in Exhibit 1 attached hereto.

**Section 2.2 Approval of Entity**

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

**Section 2.3 Improvements to be Constructed**

Entity represents that it will construct an twenty one (21) story building with approximately one hundred twenty (120) market rate residential rental units; all of which is specifically described in the Application attached hereto as Exhibit 3.

**Section 2.4 Construction Schedule**

The New Entity agrees to diligently undertake to commence construction and complete the Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5, and in compliance with any Redevelopment Agreement.

**Section 2.5 Ownership, Management and Control**

The New Entity represents that it is the owner of the property upon which the Project is to be constructed. Upon construction, the New Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and any Redevelopment Agreement.

**Section 2.6 Financial Plan**

The New Entity represents that the Improvements shall be financed in accordance with the Financial Plan attached hereto as Exhibit 6. The Plan sets forth a good faith estimate of Total

Project Cost, the amortization rate on the Total Project Cost, the source of funds, the interest rates to be paid on construction financing, the source and amount of paid-in capital, and the terms of any mortgage amortization.

**Section 2.7 Good Faith Estimate of Initial Sale Prices or Rents**

The New Entity represents that its good faith projections of the initial rents and other revenue to the Project are set forth in Exhibit 7.

**ARTICLE III - DURATION OF AGREEMENT**

**Section 3.1 Term**

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of 20 years from the date of the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, which approved the tax exemption or 15 years from the original date of Substantial Completion of the Project or \_\_\_\_20\_\_\_\_. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the Project is owned by a corporation or association formed and operating under the Law.

**ARTICLE IV - ANNUAL SERVICE CHARGE**

**Section 4.1 Annual Service Charge**

In consideration of the tax exemption, the New Entity shall make the following annual payments to the City for services provided to the Project:

i. City Service Charge: an amount equal to the greater of: the Minimum Annual Service Charge or an Annual Service Charge equal to 10% of Annual Gross Revenue or \$234,452 for the first ten (10) years; and 12% of Annual Gross Revenue or \$304,976 for the last five (5) years. The Annual Service Charge shall be billed initially based upon the New Entity's estimates of Annual Gross Revenue, attached hereto as Exhibit 6. Thereafter, the Annual Service Charge shall be adjusted in accordance with this Agreement. Notwithstanding anything to the contrary contained therein, during the Lease Up Period, the Annual Service Charge shall be prorated in accordance with Section 1.2 (xv) above.

ii. County Service Charge: an amount equal to 5% of the Municipal Annual Service

Charge shall be paid to the City and remitted by the City to the County.

iii. A Minimum Annual Service Charge shall be due beginning on the effective date of this Agreement. The City and County Annual Service Charge shall be due on the first day of the month following the Substantial Completion of the Project. In the event the New Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid.

#### **Section 4.2 Staged Adjustments**

The Annual Service Charge shall be adjusted, in Stages over the term of the tax exemption in accordance with N.J.S.A. 40A:20-12(b) as follows:

- i. Stage One: From the 1st day of the month following Substantial Completion until the last day of the 6th year, the Annual Service Charge shall be 10% of Annual Gross Revenue;
- ii. Stage Two: Beginning on the 1<sup>st</sup> day of the 7th year following Substantial Completion until the last day of the 9th year, an amount equal to the greater of the Annual Service Charge or 20% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;
- iii. Stage Three: Beginning on the 1st day of the 10th year following the Substantial Completion until the last day of the 12th year, an amount equal to the greater of the Annual Service Charge or 40% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements;
- iv. Stage Four: Beginning on the 1st day of the 13th year following Substantial Completion until the last day of the 14th year, an amount equal to the greater of the Annual Service Charge or 60% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.
- v. Final Stage: Beginning on the 1st day of the 15th year following Substantial Completion through the date the tax exemption expires, an amount equal to the greater of the Annual Service Charge or 80% of the amount of the taxes otherwise due on the initial assessed value of the land and Improvements.

#### **Section 4.3 Land Tax**

The New Entity is required to pay both the Annual Service Charge and the Land Tax

Payments. The New Entity is obligated to make timely Land Tax Payments, including any tax on the pre-existing improvements, in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. The New Entity shall be entitled to credit for the amount, without interest, of the Land Tax Payments made in the last four preceding quarterly installments against the Annual Service Charge. In any quarter that the New Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render the New Entity ineligible for any Land Tax Payment credit against the Annual Service Charge. No credit will be applied against the Annual Service Charge for a partial payment of Land Taxes. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. and/or declare a Default and terminate this Agreement.

**Section 4.4 Quarterly Installments / Interest**

The New Entity expressly agrees that the Annual Service Charge shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the New Entity fails to pay the Annual Service Charge or any other charge due under this agreement, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid in full.

**Section 4.5 Administrative Fee**

The New Entity shall also pay an annual Administrative Fee to the City in addition to the Annual Service Charge and Land Tax levy. The Administrative Fee shall be calculated as two (2%) percent of each prior year's Annual Service Charge. This fee shall be payable and due on or before December 31st of each year, and collected in the same manner as the Annual Service Charge.

**Section 4.6 Affordable Housing Contribution and Remedies**

A. **Contribution.** The New Entity will pay the City the sum of \$180,000 or \$1,500 per unit as a contribution, which will be paid in full upon the earlier of the following dates: a) the issuance of the last Temporary Certificate of Occupancy for the building; or b) 75% of the units in the building have been leased.

**Section 4.7 Material Conditions**

It is expressly agreed and understood that the timely payments of Land Taxes, Minimum

Annual Service Charges, Annual Service Charges, including adjustments thereto, Administrative Fees, Affordable Housing Contributions, and any interest thereon, are Material Conditions of this Agreement.

#### **ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT**

##### **Section 5.1 Project Employment and Contracting Agreement**

In order to provide City residents and businesses with certain employment and other economic related opportunities, the New Entity is subject to the terms and conditions of the Project Employment and Contracting Agreement, attached hereto as Exhibit 8.

#### **ARTICLE VI - CERTIFICATE OF OCCUPANCY**

##### **Section 6.1 Certificate of Occupancy**

It is understood and agreed that it shall be the obligation of the New Entity to obtain all Certificates of Occupancy in a timely manner so as to complete construction in accordance with the proposed construction schedule attached hereto as Exhibit 5. The failure to secure the Certificates of Occupancy shall subject the Property to full taxation for the period between the date of Substantial Completion and the date the Certificate of Occupancy is obtained.

##### **Section 6.2 Filing of Certificate of Occupancy**

It shall be the primary responsibility of the New Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy.

Failure of the New Entity to file such issued Certificate of Occupancy as required by the preceding paragraph, shall not militate against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by the New Entity.

#### **ARTICLE VII - ANNUAL REPORTS**

##### **Section 7.1 Accounting System**

The New Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles.

##### **Section 7.2 Periodic Reports**

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the New Entity's accounting basis that the Agreement shall continue in effect, the New

Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Project and such details as may relate to the financial affairs of the New Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement. The Report shall clearly identify and calculate the Net Profit for the New Entity during the previous year, the excess of which shall be paid to the City each year an excess profit is generated.

B. Total Project Cost Audit: Within ninety (90) days after Substantial Completion of the Project, the New Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, including but not limited to an audit of actual construction costs as certified by the Project architect.

C. Disclosure Statement: On the anniversary date of the execution of this Agreement, and each and every year thereafter while this agreement is in effect, the New Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, a Disclosure Statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each and such additional information as the City may request from time to time. All disclosures shall include ownership interests of the individual persons owning any corporate interest in the New Entity.

### **Section 7.3 Inspection/Audit**

The New Entity shall permit the inspection of its property, equipment, buildings and other facilities of the Project and, if deemed appropriate or necessary, any other related Entity by representatives duly authorized by the City or 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 New Entity for any year during which the tax exemption financial agreement was in full force and effect.

All costs incurred by the City to conduct a review of the New Entity's audits, including

reasonable attorneys' fees if appropriate, shall be billed to the New Entity and paid to the City as part of the New Entity's Annual Service Charge. Delinquent payments shall accrue interest at the same rate as for a delinquent service charge.

## **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 New Entity shall be subject to a limitation of its profits pursuant to the provisions of N.J.S.A. 40A:20-15.

The New Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount equal to five (5%) percent of the Gross Revenue of the New 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 non-cumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of five (5%) percent of the preceding year's Gross Revenue. Pursuant to N.J.S.A. 40A:20-14(b) there is expressly excluded from the calculation of Gross Revenue and Net Profit in the determination of Excess Profit, any gain realized by the New Entity on the sale of any condominium unit, whether or not taxable under federal or state law.

### **Section 8.2 Annual Payment of Excess Net Profit**

In the event the Net Profits of the New Entity, in any year, exceeds the Allowable Net Profits for such year, then the New Entity, within one hundred and twenty (120) days after the end of the year, shall pay such excess Net Profits to the City as an additional annual service charge; provided, however, that the New Entity may maintain a reserve as determined pursuant to aforementioned paragraph 8.1. The calculation of the New Entity's Excess Net Profits shall include those project costs directly attributable to site remediation and cleanup expenses and any other costs excluded in the definition of Total Project Cost in Section 1.2 (xx) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

### **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 New Entity. Within ninety (90) days after such date, the New Entity shall pay to the City

the amount of the reserve, if any, maintained by it pursuant to this section and the balance of the Excess Net Profit, if any.

## **ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION**

### **Section 9.1 Approval of Sale**

Any 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 New 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 New Entity is not then in default of this Agreement or the Law; 4) the New Entity's obligations under this Agreement are fully assumed by the new Entity; 5) the New Entity is comprised of principals possessing substantially the same or better business reputation, financial qualifications and credit worthiness of the New Entity; and 6) the New Entity pays in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d).

Nothing herein shall prohibit any transfer of the ownership interest in the New Entity itself provided that the transfer, if greater than 10%, is disclosed to the City in the annual disclosure statement or in correspondence sent to the City in advance of the filing of the annual disclosure statement.

### **Section 9.2 Transfer Application 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 New 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.

## **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 amended and supplemented, but

also by a Default under this Agreement. The New 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.

**Section 10.2 Disclosure of Lobbyist Representative**

During the term of this Agreement, the New Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The New Entity's failure to comply with the Executive Order or the Ordinance 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 New Entity to conform with the terms of this Agreement or failure of the New Entity to perform any obligation imposed by the Law, beyond any applicable notice, cure or grace period.

**Section 11.2 Cure Upon Default**

Should the New Entity be in Default, the City shall send written notice to the New Entity of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The New Entity shall have sixty (60) days, from receipt of the Default Notice, to cure any Default which shall be the sole and exclusive remedy available to the New Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

Subsequent to such sixty (60) days, or any approved extension, the City shall have the right to terminate this Agreement in accordance with Section 12.1.

Should the New Entity be in default due to a failure to pay any charges defined as Material Conditions in Section 4.7, the New Entity shall not be subject to the default procedural remedies as provided herein but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII herein.

**Section 11.3 Remedies Upon Default**

The City shall, among its other remedies, have the right to proceed against the property

pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. In order to secure the full and timely payment of the Annual Service Charge, the City on its own behalf, or on behalf of the Trustee, reserves the right to prosecute an In Rem Tax Foreclosure action against the Project Area in accordance with Applicable Law, as more fully set forth in this Financial Agreement.

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the New Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided in Article XI herein, but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against the New Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

In the event of a Default on the part of the New Entity to pay any charges set forth in Article IV, the City among its other remedies, reserves the right to proceed against the New Entity's land and property, in the manner provided by the In Rem Foreclosure Act, and any act supplementary or amendatory thereof. Whenever the word taxes appear, or is applied, directly or impliedly to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this Agreement, as if the charges were taxes or municipal liens on land.

## **ARTICLE XII- TERMINATION**

### **Section 12.1 Termination Upon Default of the New Entity**

In the event the New Entity fails to cure or remedy the Default within the time period

provided in Section 11.2, the City may terminate this Agreement upon thirty (30) days written notice to the New Entity [Notice of Termination].

**Section 12.2 Voluntary Termination by the New Entity**

The New Entity may notify the City that it will relinquish its status as a tax exempt Project, after the expiration of one year from the Substantial Completion of the Project , as of the January 1<sup>st</sup> of the year next ensuing. The Notice of Voluntary Termination must be received by the City no later than October 1<sup>st</sup> of the tax year preceding the calendar year in which the termination is to occur. As of the date so set, the tax exemption, the Annual Service Charges and the profit and dividend restrictions shall terminate. However, under no circumstances will the New Entity be entitled to any refund, in whole or in part, of any funds paid to the City to obtain the tax exemption, including but not limited to the Affordable Housing Contribution. In addition, the due date for all Affordable Housing Contribution and any other fees that the New Entity agreed to pay under this Agreement, shall be accelerated so that all fees to be paid shall be due on January 1<sup>st</sup> as a condition precedent of the voluntary termination.

**Section 12.3 Final Accounting**

Within ninety (90) days after the date of termination, whether by affirmative action of the New Entity or by virtue of the provisions of the Law or pursuant to the terms of this Agreement, the New Entity shall provide a final accounting and pay to the City the reserve, if any, pursuant to the provisions of N.J.S.A. 40A:20-13 and 15 as well as any remaining excess Net Profits. For purposes of rendering a final accounting the termination of the Agreement shall be deemed to be the end of the fiscal year for the New Entity.

**Section 12.4 Conventional Taxes**

Upon Termination or expiration of this Agreement, the tax exemption for the Project shall expire and the land and the Improvements thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the City.

**ARTICLE XIII - DISPUTE RESOLUTION**

**Section 13.1 Arbitration**

In the event of a breach of the within Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party

may apply to the Superior Court of New Jersey by an appropriate proceeding, to settle and resolve the dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. The cost for the arbitration shall be borne by the New Entity. The parties agree that the New Entity may not file an action in Superior Court or with the Arbitration Association unless the New Entity has first paid in full all charges defined in Section 4.8 as Material Conditions.

### **Section 13.2 Appeal of Assessment**

In calculating the amount of “staged” tax adjustments otherwise due pursuant to Section 4.2 and N.J.S.A. 40A:20-12, the New Entity may file an appeal of the conventional assessment but not an appeal of the “initial assessment” used to calculate a service charge.

## **ARTICLE XIV - WAIVER**

### **Section 14.1 Waiver**

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit the City’s right to audit or recover any amount which the City has under law, in equity, or under any provision of this Agreement.

## **ARTICLE XV - INDEMNIFICATION**

### **Section 15.1 Defined**

It is understood and agreed that in the event the City shall be named as party defendant in any action by a third party alleging any breach, default or a violation of any of the provisions of this Agreement and/or the provisions of N.J.S.A. 40A:20-1 et seq., the New Entity shall indemnify and hold the City harmless against any and all liability, loss, cost, expense (including reasonable attorneys’ fees and costs, through trial and all stages of any appeal, including the cost of enforcing this indemnity) arising out of Agreement. In addition, the New Entity expressly waives all statutory or common law defenses or legal principles which would defeat the purposes of this indemnification. The New Entity also agrees to defend the suit at its own expense. However, the City maintains the

right to intervene as a party thereto, to which intervention the New Entity consents; the expense thereof to be borne by the City.

## ARTICLE XVI- NOTICE

### **Section 16.1 Certified Mail**

Any notice required hereunder to be sent by either party to the other shall be sent by certified or registered mail, return receipt requested.

### **Section 16.2 Sent by City**

When sent by the City to the New Entity the notice shall be addressed to:

BR Tower Urban Renewal Co., LLC  
c/o Beacon Redevelopment, LLC  
4 Beacon Way, #16  
Jersey City, NJ 07304  
Attn:

unless prior to giving of notice the New Entity shall have notified the City in writing otherwise.

In addition, provided the City is sent a formal written notice in accordance with this Agreement, of the name and address of Entity's Mortgagee, the City agrees to provide such Mortgagee with a copy of any notice required to be sent to the New Entity.

### **Section 16.3 Sent by Entity**

When sent by the New Entity to the City, it shall be addressed to:

City of Jersey City, Office of the City Clerk  
City Hall  
280 Grove Street  
Jersey City, New Jersey 07302,

with copies sent to the Corporation Counsel, the Business Administrator, and the Tax Collector unless prior to the giving of notice, the City shall have notified the New Entity otherwise. The notice to the City shall identify the Project to which it relates, (i.e., the Urban Renewal Entity and the Property's Block and Lot number).

## ARTICLE XVII-SEVERABILITY

### **Section 17.1 Severability**

If any term, covenant or condition of this Agreement or the Application, except a Material Condition, shall be judicially declared to be invalid or unenforceable, the remainder of this

Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the New Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

## **ARTICLE XVIII - MISCELLANEOUS**

### **Section 18.1 Construction**

This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the New Entity and the City have combined in their review and approval of same.

### **Section 18.2 Conflicts**

The parties agree that in the event of a conflict between the Application and the language contained in the Agreement, the Agreement shall govern and prevail. In the event of conflict between the Agreement and the Law, the Law shall govern and prevail.

### **Section 18.3 Oral Representations**

There have been no oral representations made by either of the parties hereto which are not contained in this Agreement. This Agreement, the Ordinance authorizing the Agreement, and the Application constitute the entire Agreement between the parties and there shall be no modifications thereto other than by a written instrument approved and executed by both parties and delivered to each party.

### **Section 18.4 Entire Document / Termination**

This Agreement and all conditions in the Ordinance of the Municipal Council approving this Agreement are incorporated in this Agreement and made a part hereof. The Financial Agreement dated January 3, 2007, is hereby terminated.

**Section 18.5 Good Faith**

In their dealings with each other, utmost good faith is required from the New Entity and the City.

**ARTICLE XIX - EXHIBITS**

**Section 19 Exhibits**

The following Exhibits are attached hereto and incorporated herein as if set forth at length herein:

1. Metes and Bounds description of the Project;
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. Good Faith Estimate of Initial Rents;
8. Project Employment and Contracting Agreement;
9. Architect's Certification of Actual Construction Costs.
10. Entity's Deed

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

**WITNESS:**

**BR TOWER URBAN RENEWAL  
COMPANY, LLC**

**ATTEST:**

**CITY OF JERSEY CITY**

\_\_\_\_\_  
**ROBERT BYRNE  
CITY CLERK**

\_\_\_\_\_  
**JOHN KELLY  
BUSINESS ADMINISTRATOR**

City Clerk File No. Ord. 12-153

Agenda No. 3.N 1st Reading

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



## ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-153

TITLE:

**AN ORDINANCE ESTABLISHING THAT A BUSINESS ENTITY WHICH MAKES POLITICAL CONTRIBUTIONS TO MUNICIPAL CANDIDATES AND MUNICIPAL AND COUNTY POLITICAL PARTIES IN EXCESS OF CERTAIN THRESHOLDS SHALL BE LIMITED IN ITS ABILITY TO RECEIVE PUBLIC CONTRACTS FROM THE CITY OF JERSEY CITY (CONTRACTORS PAY-TO-PLAY REFORM ORDINANCE)**

**The Municipal Council of the City of Jersey City does hereby ordain:**

**WHEREAS**, large political contributions from those seeking or performing contracts with a municipality raise reasonable concerns on the part of taxpayers and residents to their trust in government and its business practices; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and by-laws as necessary and proper for good government, as well as the public health, safety and welfare; and

**WHEREAS**, pursuant to P.L. 2005, c. 271 (codified at N.J.S.A. 40A:11-51) a municipality is authorized to adopt by ordinance, measures limiting the awarding of public contracts to business entities that have made political contributions, and limiting the contributions that the recipient of such a contract can make during the term of a contract; and

**WHEREAS**, in the interest of good government, the people and the government of the City of Jersey City desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections.

**NOW, THEREFORE, BE IT ORDAINED**, it shall be the policy of the City of Jersey City to create such a regulation which states that a business entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Jersey City; and

**BE IT ORDAINED** by the City of Jersey City, in the County of Hudson, State of New Jersey as follows:

### DEFINITIONS

As used in this ordinance:

- (a) "Campaign Committee" means (i) every candidate for City of Jersey City elective municipal office; (ii) every candidate committee established by or for the benefit of a committee established in whole or in part by or for the benefit of a candidate for City of Jersey City elective municipal office; (iii) every joint candidate committee established in whole or in part by or for the benefit of a candidate for City of Jersey City elective municipal office; (iv) every political party committee of the City of Jersey City; (v) every candidate and candidate committee for the Jersey City Board of Education; (vi) every political party committee of the County of Hudson; and (vi)

**AN ORDINANCE ESTABLISHING THAT A BUSINESS ENTITY WHICH MAKES POLITICAL CONTRIBUTIONS TO MUNICIPAL CANDIDATES AND MUNICIPAL AND COUNTY POLITICAL PARTIES IN EXCESS OF CERTAIN THRESHOLDS SHALL BE LIMITED IN ITS ABILITY TO RECEIVE PUBLIC CONTRACTS FROM THE CITY OF JERSEY CITY (CONTRACTORS PAY-TO-PLAY REFORM ORDINANCE)**

every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidates for the City of Jersey City municipal or Hudson County elective offices or City of Jersey City municipal or Hudson County political parties or political party committees. Their terms in the foregoing paragraph have the meaning prescribed in N.J.A.C. 19:25-1.7

- (b) "Contribution" has the meaning prescribed in N.J.A.C. 19:25-1.7. By way of illustration, and not limitation, this definition includes pledges, loans, and in-kind contributions.
- (c) A "contract for professional or extraordinary services" means all contracts for "professional services" and "extraordinary unspecifiable services" as such term is used in N.J.S.A. 40A:11-5.
- (d) For purposes of this Ordinance, a "Business Entity" whose contributions are regulated by this ordinance means: (i) an individual including the individual's spouse, and any child/children; (ii) a firm; corporation; professional corporation; partnership; limited liability company; organization; association; and any other manner and kind of business entity; (iii) any person who owns 10% or more of the equity or ownership or income interests in a person or entity as defined in sections (1) and (ii) above and their spouses and child/children; (iv) all partners or officers of such an entity, in the aggregate, and their spouses and child/children; (v) any person, subcontractor, subsidiary, corporation, firm, partnership, limited liability company, organization or association who has received or indefeasibly acquired the right to receive from a person described in subsection (1) above, more than \$100,000.00 in compensation or income of any kind (including, by way of illustration, and not limitation, wages, salaries, sums paid to independent contractors, benefits, dividends, profit-sharing, pension contributions, deferred contributions, stock, stock options or gifts, in any twelve (12) month period prior to the award of or during the term of a contract subject to this ordinance; and (vi) all persons who are an "affiliate" of a Business Entity as defined in sections (1), (ii) and (v) above, as such term is used in 11 U.S.C. 101(2).

**Section 1- Prohibition on Awarding Public Contracts to Certain Contributors**

- (e) To the extent that it is not inconsistent with state or federal law, the City of Jersey City and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise contract to procure "professional services" such as term is defined in N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i) and/or banking, insurance or other consulting service (hereinafter "Professional Services"), nor "extraordinary unspecified services" as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-5(1)(a)(ii) and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter "Extraordinary Unspecified Services") from any Business Entity if such Business Entity has solicited or made any Contribution to (i) a candidate, candidate committee or joint candidates committee of any candidate of elective municipal office in Jersey City or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Jersey City or Hudson County political committee or political party committee, or (iii) to any continuing political committee or political action committee that regularly engages in the support of Jersey City municipal or Hudson County elections and/or Jersey City municipal or Hudson County candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), in excess of the thresholds

**AN ORDINANCE ESTABLISHING THAT A BUSINESS ENTITY WHICH MAKES POLITICAL CONTRIBUTIONS TO MUNICIPAL CANDIDATES AND MUNICIPAL AND COUNTY POLITICAL PARTIES IN EXCESS OF CERTAIN THRESHOLDS SHALL BE LIMITED IN ITS ABILITY TO RECEIVE PUBLIC CONTRACTS FROM THE CITY OF JERSEY CITY (CONTRACTORS PAY-TO-PLAY REFORM ORDINANCE)**

specified in subsection (c) within one calendar year immediately preceding the date of the contract or agreement.

- (f) No Business Entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the City of Jersey City or any of its departments or instrumentalities for the rendition of Professional Services or Extraordinary Unspecified Services shall knowingly solicit or make any Contribution to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Jersey City, or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Jersey City or Hudson County political committee or political party committee, or (iii) any PAC between the time of first communication between that Business Entity and the municipality regarding a specific agreement for Professional Services or Extraordinary Unspecified Services, and the later of the termination or negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.
- (g) The monetary thresholds of this Ordinance are: (i) a maximum of \$300 per calendar year each for any purpose to any candidate or candidate committee for mayor or governing body, or \$500 per calendar year to any joint candidates committee for mayor or governing body or \$300 per calendar year to a political committee or political party committee ; (ii) \$500 maximum per calendar year to a Hudson County political committee or political party committee; and (iii) \$500 maximum per calendar year to any PAC. However, for each Business Entity party to contract for Professional or Extraordinary Unspecified Services as defined in subparagraph (a), or engaged in negotiations for a contract defined in subparagraph (a), when such Business Entity's Contribution is aggregated with all "persons" defined in subparagraph (d) of "Definitions" above, by virtue of their affiliation to that Business Entity party, a maximum of \$2,500 to all City of Jersey City candidates, candidate committees, joint candidate committees, and holders of public office having ultimate responsibility for the award of a contract, all City of Jersey City or Hudson County political committees and political party committees as described herein combined, without violating subsection (a) of this section.
- (h) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contact shall be (i) the City of Jersey City Mayor Governing body, if the contract requires approval or appropriation form the Mayor or Governing body, or (ii) the Mayor of the City of Jersey City, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.
- (i) Rules regarding subcontractors. No person may be awarded a subcontract to perform under a contract subject to this Ordinance, if the subcontractor would be disqualified by paragraph (a) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by paragraph (a) from receiving the contract perform substantially all of obligations described in a contract for professional or extraordinary services that is subject to this ordinance.

**SECTION 2 – CONTRIBUTIONS MADE PRIOR TO THE EFFECTIVE DATE**

No Contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

**AN ORDINANCE ESTABLISHING THAT A BUSINESS ENTITY WHICH MAKES POLITICAL CONTRIBUTIONS TO MUNICIPAL CANDIDATES AND MUNICIPAL AND COUNTY POLITICAL PARTIES IN EXCESS OF CERTAIN THRESHOLDS SHALL BE LIMITED IN ITS ABILITY TO RECEIVE PUBLIC CONTRACTS FROM THE CITY OF JERSEY CITY (CONTRACTORS PAY-TO-PLAY REFORM ORDINANCE)**

**SECTION 3 – CONTRACT RENEWAL**

No contract subject to this Ordinance may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of this ordinance if it were an initial contract.

**SECTION 4 – CONTRIBUTION STATEMENT BY BUSINESS ENTITY**

(j) Prior to awarding any contract or agreement to procure Professional Services or Extraordinary Unspecified Services from any Business Entity, the City of Jersey City or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said Business Entity which is the intended recipient of said contract that he/she/it has not made a Contribution in violation of Section 1 of this Ordinance. The City of Jersey City, its purchasing agents and departments shall be responsible for informing the City Council that the aforementioned sworn statement has been received and that the Business Entity is not in violation of this ordinance prior to awarding the contract or agreement.

(k) A Business Entity shall have a continuing duty to report to the City of Jersey City any Contributions that constitute a violation of this act that are made during the negotiation, proposal process or the duration of a contract. The City of Jersey City, its purchasing agents and departments shall be responsible for informing the governing body within ten (10) business days after receipt of said report from the Business Entity, or whichever comes first.

(l) The certification required under this subsection shall be made prior to entry into the contract or agreement with the City of Jersey City, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

**SECTION 5 – RETURN OF EXCESS CONTRIBUTIONS**

A Business Entity that is a party to a contract for Professional Services or Extraordinary Unspecified Services may cure a violation of Section 1 of this Ordinance, if, within 30 days after the date on which the applicable ELEC report is published, said Business Entity notifies the municipality in writing and seeks and receives reimbursement of the Contribution from the recipient of such Contribution.

**SECTION 6 – EXEMPTIONS**

The contribution limitations prior to entering into a contract in Section 1(a) do not apply to contracts which (i) are awarded to the lowest responsible bidder after public advertising for bids and bidding therefore within the meaning of N.J.S.A. 40A:11-4, or (ii) are awarded in the case of emergency under N.J.S.A. 40A:11-6. There is no exemption for contracts awarded pursuant to a "Fair and Open Process" under N.J.S.A. 19:44A-20 et seq.

**SECTION 7 – PENALTY**

(m) It shall be a material breach of the terms of a City of Jersey City agreement or contract for Professional Services or Extraordinary Unspecified Services when a Business Entity that is a party to such agreement or contract has: (i) made or solicited a Contribution in violation of this Ordinance; (ii) knowingly concealed or misrepresented a contribution given or received; (iii) made or solicited Contribution; (iv) made or solicited any Contribution on the condition or with the agreement that it will be re-

**AN ORDINANCE ESTABLISHING THAT A BUSINESS ENTITY WHICH MAKES POLITICAL CONTRIBUTIONS TO MUNICIPAL CANDIDATES AND MUNICIPAL AND COUNTY POLITICAL PARTIES IN EXCESS OF CERTAIN THRESHOLDS SHALL BE LIMITED IN ITS ABILITY TO RECEIVE PUBLIC CONTRACTS FROM THE CITY OF JERSEY CITY (CONTRACTORS PAY-TO-PLAY REFORM ORDINANCE)**

contributed to a candidate, candidate committee or joint candidates committee or any candidate for elective municipal office in Jersey city, or a holder of public office having ultimate responsibility for the award of a contract, or any Jersey City or Hudson County political committee or political party committee, or any PAC; (v) engaged or employed a lobbyist or consultant with the intent or understanding that the such lobbyist or consultant would make or solicit any Contribution, which if made or solicited by the professional Business Entity itself, would subject that entity to the restrictions of this Ordinance; (vi) funded contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engaged in any exchange of Contributions to circumvent the intent of this Ordinance; or (viii) directly or indirectly, through or by any other person or means, done any act which if done directly would subject that entity to the restrictions of this Ordinance.

(n) Furthermore, any Business Entity that violates Section 7 (a) (i-viii) shall be disqualified from eligibility for future City of Jersey City contracts for a period of four (4) calendar years from the date of the violation.

(o) Any person who knowingly, purposely, or recklessly violates any provision of this Ordinance, or who conspires with another person to violate any provision of this Ordinance, or who, with the purpose of promoting or facilitating a violation of this Ordinance, solicits another person to commit it, or aids or agree, or attempts to aid another person in planning or committing it, shall be subject to punishment including fines and/or imprisonment as fixed by law for violations of the Ordinances of the City of Jersey City.

**SECTION 8 – CITIZENS PRIVATE RIGHT OF ACTION**

In addition to any rights that were heretofore available, or which may hereafter by available, to citizens, taxpayers, or associations, to challenge violations of this Ordinance, every person aggrieved by a violation of the Ordinance, or any taxpayer or resident of the City of Jersey City has the right, consistent with the Rules of court, to file charges in a court of competent jurisdiction, and/or to pursue a civil action for a violation of this Ordinance in a court of competent jurisdiction, and to seek and obtain declaratory, injunctive, or other legal or equitable relief, including but not limited to, attorneys fees and costs, arising from or related to a violation of this Ordinance.

**SECTION 9 – SEVERABILITY**

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Ordinance are severable. The drafters of this Ordinance, the persons signing the petition in support of this Ordinance, and the persons who cast votes in favor of the Ordinance, declare that they would have supported the Ordinance and each section, subsection, sentence, clause, phrase, or provision or application thereof, irrespective of the fact that any one or more other section, subsections, sentences, clauses, phrases, or provision or applications thereof may be held invalid.

Committee of Petitioners pursuant to N.J.S.A. 40:69A-186

James Carroll, 44 Terrace, Jersey City, NJ 07307

**AN ORDINANCE ESTABLISHING THAT A BUSINESS ENTITY WHICH MAKES POLITICAL CONTRIBUTIONS TO MUNICIPAL CANDIDATES AND MUNICIPAL AND COUNTY POLITICAL PARTIES IN EXCESS OF CERTAIN THRESHOLDS SHALL BE LIMITED IN ITS ABILITY TO RECEIVE PUBLIC CONTRACTS FROM THE CITY OF JERSEY CITY (CONTRACTORS PAY-TO-PLAY REFORM ORDINANCE)**

Steven Fulop, 76 Essex Street, Jersey City, NJ 07302  
Daniel Levin, 2281/2 Third Street, Jersey City, NJ 07302  
Aaron Morrill, 209 Washington Street, Jersey City, NJ 07302  
Shelly Skinner, 286 Pavonia, Jersey City, NJ 07302

**SECTION 10 – REPEALER**

All ordinances or parts of ordinances which are inconsistent with any provisions of this Ordinance are hereby repealed as to the extent of such inconsistencies.

**SECTION 11 – INDEXING**

The monetary thresholds of “Definitions” Section (d) and Section 1(c) of this Ordinance shall be increased effective March 1 of each calendar year by the percentage increase, in the price calendar year, of the consumer price index for all urban consumers (CPI-U) for the New York, Northern New Jersey Long Island region, rounded to the nearest \$10.00. The Clerk of the City of Jersey City shall, by no later than April 1 of each calendar year, prepare and publish the revised thresholds on the official municipal website and in the official municipal newspaper.

**SECTION 12 – EFFECTIVE DATE**

This Ordinance shall become effective twenty (20) days following the final adoption thereof by the Municipal Council of the City of Jersey City and shall be published as required by law.

**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*.

WM/igp  
10/12/12

APPROVED AS TO LEGAL FORM

APPROVED: \_\_\_\_\_

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

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

Certification Required

Not Required

City Clerk File No. Ord. 12-154

Agenda No. 3.0 1st Reading

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



# ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 12-154

TITLE:

**AN ORDINANCE AMENDING CHAPTER 3 (ADMINISTRATION OF GOVERNMENT) ARTICLE VI (CONTRACTORS PAY-TO-PLAY REFORM ORDINANCE) ADDING ADDITIONAL PROHIBITED DONATIONS TO CERTAIN COMMITTEES AND CERTAIN CONTRACTORS DOING BUSINESS WITH THE JERSEY CITY SCHOOL DISTRICT**

**The Municipal Council of the City of Jersey City does hereby ordain:**

**WHEREAS**, large political contributions from those seeking or performing contracts with a municipality raise reasonable concerns on the part of taxpayers and residents as to their trust in government and its business practices; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and by-laws as necessary and proper for good government, as well as the public health, safety and welfare; and

**WHEREAS**, pursuant to P.L. 2005, c. 271 (codified at N.J.S.A. 40A:11-51) a municipality is authorized to adopt by ordinance, measures limiting the awarding of public contracts to business entities that have made political contributions, and limiting the contributions that the recipient of such a contract can make during the term of a contract; and

**WHEREAS**, in the interest of good government, the people and the government of the City of Jersey City desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections.

**NOW, THEREFORE, BE IT ORDAINED**, it shall be the policy of the City of Jersey City to create such a regulation which states that a business entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Jersey City; and

**BE IT ORDAINED** by the City of Jersey City, in the County of Hudson, State of New Jersey as follows:

SEC. 3-51.1.

DEFINITIONS:

As used in this ordinance:

(a) "Campaign Committee" means (i) every candidate for City of Jersey City elective municipal office; (ii) every candidate committee established by or for the benefit of a candidate for City of Jersey City elective municipal office; (iii) every joint candidate committee established in whole or in part by or for the benefit of a candidate for City of Jersey City elective municipal office; (iv) any candidate committee or joint candidate committee established by a candidate or office holder for Assembly or Senate elected office which represents a district encompassing Jersey City and which has given direct

office which represents a district encompassing Jersey City and which has given direct monetary or in kind support to any candidate or office holder of any Jersey City elective municipal office in the twelve months prior to the award of, or during the term of, a contract subject to this ordinance; (v) every candidate or every candidate committee for the Jersey City Board of Education (iv) every political party committee of the City of Jersey City; (v) every political party committee of the County of Hudson; and (vii) every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidate for the City of Jersey City municipal or Hudson County elective offices or City of Jersey City municipal or Hudson county political parties or political party committees. The terms in the foregoing paragraph have the meaning prescribed in N.J.A.C. 19:25-1.7.

(b) “Contribution” has the meaning prescribed in N.J.A.C. 19:25-1.7. By way of illustration, and not limitation, this definition includes pledges, loans, and in-kind contributions.

(c) A “contract for professional or extraordinary services” means all contracts for “professional services” and “extraordinary unspecifiable services” as such term is used in N.J.S.A. 40A:11-5.

(d) For purposes of this Ordinance, a “Business Entity” whose contributions are regulated by this ordinance means: (i) an individual including the individual’s spouse, and any children/children; (ii) a firm; corporation; professional corporation; partnership; limited liability company; organization; association; and other manner and kind of business entity; (iii) any person who owns 10% or more of the equity or ownership or income interests in a person or entity as defined in sections (i) and (ii) above and their spouses and child/children; (v) any person, subcontractor, subsidiary, corporation, firm, partnership, limited liability company, organization or association who has received or infeasibly acquired the right to receive, from a person described in subparagraph (i) above, more than \$100,000.00 in compensation or income of any kind (including, by way of illustration, and not limitation: wages, salaries, sums paid to independent contractors, benefits, dividends, profit-sharing, pension contributions, deferred contributions, stock, stock options or gift), in any twelve (12) month period prior to the award of, or during the term of, a contract subject to this ordinance; and (vi) all persons who are an “affiliate” of a Business Entity as defined in sections (i), (ii) and (v) above, as such term is used in 11 U.S.C. 101(2).

(e) “Political Committee or Continuing Political Committee” means (i) every political party committee of the City of Jersey City; (ii) every state or county political party committee; (iii) every legislative leadership committee; (iv) every political committee, continuing political committee, or other organization, entity or form of association required to register annually with ELEC that has undertaken any of the following actions in the twelve (12) months prior to the award of, or during the term of, a contract subject to this ordinance: (1) made a direct monetary contribution in excess of \$300.00 or in kind contribution, to any candidate committee established for the benefit of a candidate for City of Jersey City municipal election; (2) transfers more than five percent (5%) of its assets to a candidate committee established for the benefit of a candidate for City of Jersey City municipal election; (3) advertises in express support or advocacy for the election of any candidate for City of Jersey City municipal election; (4) engages in voter identification initiatives within the City of Jersey City; or (5) engages in “get out the vote” activities within the City of Jersey City. The terms within have the meaning proscribed in N.J.A.C. 19:25-1.7 and N.J.S.A. 19:44A-1 et seq.

#### SECTION 1 – PROHIBITION ON AWARDED PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS

(f) To the extent that it is not inconsistent with state or federal law, the City of Jersey City and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise contract to procure “professional services” as such term is defined at N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i) and/or banking,

insurance or other consulting service (hereinafter "Professional Services"), not "extraordinary unspecified services" as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-5(1)(a)(ii) and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter "Extraordinary Unspecified Service") from any Business Entity if such Business Entity has solicited or made any Contribution in excess of the thresholds specified in subsection (c) within one calendar year immediately preceding the date of the contract or agreement, to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Jersey City or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Jersey City or Hudson County political committee or political party committee, or (iii) to any continuing political committee or political action committee that in the twelve (12) months prior to the award of, or during the term of, a contract subject to this ordinance, has given direct monetary or in kind support, to any Jersey City municipal or Hudson County elections and/or Jersey City municipal or Hudson County candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), in excess of the thresholds specified in subsection (c) within one calendar year immediately preceding the date of the contract or agreement or (iv) to any other organization, entity or form of association required to register annually with ELEC (hereinafter "PAC"); that regularly engages in the support of in the twelve (12) months prior to the award of, or during the term of, a contract subject to this ordinance has either: (1) made a direct monetary contribution in excess of \$300.00 or in kind contribution, to any candidate committee established for the benefit of a candidate for City of Jersey City municipal election; (2) transfers more than five percent (5%) of its assets to a candidate committee established for the benefit of a candidate for City of Jersey City municipal election; (3) advertises in express support or advocacy for the election of any candidate for City of Jersey City municipal election; (4) engages in voter identification initiatives within the City of Jersey City; or (5) engages in "get out the vote" activities within the City of Jersey City.

(g) (f) No Business Entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the City of Jersey City or any of its departments or instrumentalities for the rendition of Professional Services or Extraordinary Unspecified Services shall knowingly solicit or make any Contribution, to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Jersey City, or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Jersey City or Hudson County political committee or political party committee, or (iii) any PAC between the time of first communication between that Business Entity and the municipality regarding a specific agreement for Professional Services or Extraordinary Unspecified Services, and the later of the termination or negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.

(h) (g) The monetary thresholds of this Ordinance are: (i) a maximum of \$300 per calendar year each for any purpose to any candidate or candidate committee for mayor or governing body, or \$500 per calendar year to any joint candidates committee for mayor or governing body or \$300 per calendar year to a political committee or political party committee ; (ii) \$500 maximum per calendar year to a Hudson County political committee or political party committee; and (iii) \$500 maximum per calendar year to any PAC. However, for each Business Entity party to contract for Professional or Extraordinary Unspecified Services as defined in subparagraph (a), or engaged in negotiations for a contract defined in subparagraph (a), when such Business Entity's Contribution is aggregated with all "persons" defined in subparagraph (d) of "Definitions" above, by virtue of their affiliation to that Business Entity party, a maximum of \$2,500 to all City of Jersey City candidates, candidate committees, joint candidate committees, and holders of public office having ultimate responsibility for the award of a contract, all City of Jersey City or Hudson County political committees and political party committees as described herein combined, without violating subsection (a) of this section.

(h) (i) For purposes of this section, the office that is considered to have ultimate

responsibility for the award of the contact shall be (i) the City of Jersey City Mayor Governing body, if the contract requires approval or appropriation form the Mayor or Governing body, or (ii) the Mayor of the City of Jersey City, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.

(j) Rules regarding subcontractors. No person may be awarded a subcontract to perform under a contract subject to this Ordinance, if the subcontractor would be disqualified by paragraph (a) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by paragraph (a) from receiving the contract perform substantially all of obligations described in a contract for professional or extraordinary services that is subject to this ordinance.

**SECTION 2 – CONTRIBUTIONS MADE PRIOR TO THE EFFECTIVE DATE**

No Contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

**SECTIONS 3 to 12. NO CHANGES.**

- B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- C. The City Clerk 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 may change any chapter numbers article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

Note: All new material is underlined; words in brackets are omitted. For purposes of advertising only, new matter is **Boldfaced** and repealed matter by *italics*.

WM/igp  
10/15/12

APPROVED AS TO LEGAL FORM

APPROVED: \_\_\_\_\_

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

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

Certification Required   
Not Required