

City Clerk File No. Ord. 13.143
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 13.143

TITLE: ORDINANCE AUTHORIZING 1) APPROVAL OF A TAX EXEMPTION FOR A RESIDENTIAL/COMMERCIAL RENTAL PROJECT OWNED BY 272 GROVE STREET URBAN RENEWAL, LLC AND 2) RECISSION OF ORDINANCE 07-052 AND TERMINATION OF THE PRIOR FINANCIAL AGREEMENT

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

WHEREAS, 272 Grove 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 property designated as Block 14102, Lot 1.01 (formerly known as Block 14102, Lots 1 & 37), on the City's Official Tax map, more commonly known by the street address of 272 Grove Street, and more specifically described by metes and bounds, in the application [Property]; and

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

WHEREAS, by the adoption of Ordinance 07-052 on March 28, 2007, the Municipal Council of the City of Jersey City approved a tax exemption for a residential condominium project; and

WHEREAS, the Entity paid \$63,000 or 1/3 of its Affordable Housing Trust Fund contribution and made a prepayment of \$300,000 in consideration of the original tax exemption; and

WHEREAS, due to a change in market conditions, it is no longer feasible for the Entity to construct a condominium Project as originally intended and the project was never commenced; and

WHEREAS, the Entity now plans to construct a building with approximately 99 market rate residential rental units, 20,000 square feet of retail space, and a garage to contain approximately 46 parking spaces; [Project]; and

WHEREAS, in December 2012 the Project received site plan approval from the Planning Board; and

WHEREAS, on or about December 10, 2013, the Entity filed an Application requesting that the City rescind Ordinance 07-052 and approve a 10 year tax exemption for the residential/commercial rental project based upon 10% of annual gross revenue, estimated at \$402,960; and

WHEREAS, the City hereby makes the following findings:

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

1. the current real estate tax generates revenue of only \$74,659 whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately \$402,960; and
2. the Entity will pay the City the sum of \$178,500, of which \$63,000 was already paid, as an affordable housing contribution pursuant to Ordinance 03-112; and
3. it is expected that the Project will create approximately 200-250 new construction jobs and 50-100 new permanent full time jobs; and
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; and
5. the Project will further the objectives of the Majestic II Redevelopment Plan and will develop vacant property; and
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; and

WHEREAS, 272 Grove Street Urban Renewal, LLC has agreed to:

1. pay the greater of the Annual Service Charge or the Minimum Annual Service Charge; and
2. pay an annual sum equal to 2% of each prior year's Annual Service Charge or \$8,059 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 or \$20,148 upon receipt of that charge from the Entity; and
5. pay the sum of \$178,500 to the City's Affordable Housing Trust Fund, of which the City acknowledges receipt of \$63,000; and

WHEREAS, 272 Grove 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.

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

A. The application of 272 Grove 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 designated as Block 14102, Lot 1.01 (formerly known as Block 14102, Lots 1 & 37), on the City's Official Tax map, more commonly known by the street address of 272 Grove Street, more specifically described by metes and bounds in the application is hereby approved.

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

1. Term: the earlier of 10 years from the date of Substantial Completion or 12 years from the adoption of the within Ordinance.
2. Annual Service Charge: each year the greater of:
 - (a) the Minimum Annual Service Charge as further defined in the Financial Agreement; or
 - (b) 10% of Annual Gross Revenue following Substantial Completion, estimated upon the completion of the Lease Up Period to be \$402,960 which is anticipated to increase during the term of the tax exemption, and which sum will be increased in stages 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 ten percent (10%) of Annual Gross Revenue;
 - (ii) Stage Two: from the 1st day of the 7th year until the last day of the 7th year, an amount equal to the greater of (a) ten percent (10%) of the Annual Gross Revenue or (b) twenty percent (20%) of the taxes otherwise due on the value of the land and Improvements;
 - (iii) Stage Three: from the 1st day of the 8th year until the last day of the 8th year, an amount equal to the greater of (a) ten percent (10%) of the Annual Gross Revenue or (b) forty percent (40%) of the taxes otherwise due on the value of the land and Improvements;
 - (iv) Stage Four: from the 1st day of the 9th year until the last day of the 9th year, an amount equal to the greater of (a) ten percent (10%) of the Annual Gross Revenue or (b) sixty percent (60%) of the taxes otherwise due on the value of the land and Improvements;
 - (v) Final Stage: from the 1st day of the 10th year until the last day of the term hereof, an amount equal to the greater of (a) ten percent (10%) of the Annual Gross Revenue or (b) eighty percent (80%) of the taxes otherwise due on the value of the land and Improvements;
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. Project: construct a building, containing approximately 99 market rate residential rental units, approximately 20,000 square feet of retail/commercial space and a parking garage unit consisting of 46 parking spaces.
- 6. Affordable Housing Trust Fund: \$178,500. However, the City acknowledges that \$63,000 has been paid and the balance shall be paid as follows: \$57,750 on or before the issuance of the first construction permit but not later than 6 months after the Financial Agreement is signed; and \$57,750 on or before the issuance of the first certificate of occupancy but not later than twenty four months after the Financial Agreement is signed.
- 7. An obligation to comply with the original 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 within two (2) years of the adoption of the within Ordinance.

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, specifically Ordinance 07-052, 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
12/12/13

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required
Not Required

Rev. 12-12-13
Long Term Tax Exemption
N.J.S.A. 40A:20-1, et seq.
(New Market Rate Res Rental FA)

Re: 272 Grove Street
Approximately _____ Acres
Block 14102, Lot 1.01
Majestic II Redevelopment Plan or

PREAMBLE

THIS FINANCIAL AGREEMENT, [Agreement] is made the _____ day of ____, 2014 by and between **272 GROVE STREET URBAN RENEWAL**, 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 279 Grove Street, Jersey City, New Jersey 07302 [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 pursuant to Deeds dated _____, of certain property designated as Block 14102, Lot 1.01, (formerly known as Block 14102, Lots 1 and 37) more commonly known by the street address of 279 Grove 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 Majestic II Redevelopment Plan Area; and

WHEREAS, the Entity plans to construct a building with approximately 99 market rate residential rental units, 20,000 square feet of retail space, and a garage to contain approximately 46 parking spaces; [Project]; and

WHEREAS, on December 4, 2012 the Project received site plan approval from the

Planning Board; and

WHEREAS, the Entity filed an Application with the City for a long term tax exemption for the Project on October 23, 2013, as amended and restated on or about December 10, 2013; and

WHEREAS, by the adoption of Ordinance _____ on _____, 2014, 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 \$74,659 whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately \$402,960; and
2. the Entity will pay the City the sum of \$178,500, as an affordable housing contribution pursuant to Ordinance 03-112; and
3. it is expected that the Project will create approximately 200-250 new construction jobs and 50-100 new permanent full time jobs; and
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; and
5. the Project will further the objectives of the Majestic II Redevelopment Plan and will develop vacant property; and
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 _____, Disclosure of Lobbyist Status, Ordinance 02-075, and Ordinance 14-_____, 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 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 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 272 Grove 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 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 first day of the month following Substantial Completion [Lease Up Period]. During the Lease Up Period, the Entity shall pay the sum equal to the higher of the Minimum Annual Service Charge calculated pursuant to xvi(a) or the actual Annual Service Charge. The Lease Up Period shall expire 24 calendar months after Substantial Completion.

xvi. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be: (a) Commencing on the date the agreement is executed, the amount of the total taxes levied against all real property in the area covered by the Project in the last full tax year in which the

area was subject to taxation, which amount the parties agree is \$74,659; or (b) after the expiration of the Lease Up Period, the sum of \$402,960 per year.

Following the Lease Up Period, the Minimum Annual Service Charge shall be \$402,960 in each year in which the Annual Service Charge, calculated pursuant to N.J.S.A. 40A:20-12 or this Agreement, would be less.

xvii. 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.

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 Entity to relinquish its tax exemption.

xxi. Total Project Cost - The total cost of constructing the Project through the date a Certificate(s) of Occupancy is issued for the entire Project, which categories of cost are set forth in N.J.S.A. 40A:20-3(h). There shall be included in Total Project Cost the actual costs incurred by the Entity and certified by an independent and qualified architect or engineer, which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or Federal law and any extraordinary costs incurred including the cost of demolishing structures, relocation or removal of public utilities, cost of relocating displaced residents or buildings and the clearing of title. If the Service Charge is a percentage of Total Project Cost, then 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 14102, Lot 1.01, (formerly known as Block 14102, Lots 1 and 37) more commonly known by the street address of 279 Grove Street, Jersey City, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement.

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 building with approximately 99 market rate residential rental units, 20,000 square feet of commercial space and a parking garage to contain approximately 46 parking spaces; all of which is specifically described in the Application attached hereto as Exhibit 3.

Section 2.4 Construction Schedule

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

Section 2.5 Ownership, Management and Control

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

Section 2.6 Financial Plan

The Entity represents that the Improvements shall be financed in accordance with the Financial Plan attached hereto as Exhibit 6. The Plan sets forth 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 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 _____, 2014, which approved the tax exemption or 10 years from the original date of Substantial Completion of the Project. The tax

exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the 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

(a) 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 10% of the Annual Gross Revenue. 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. The Minimum Annual Service Charge pursuant to Section 1.2xvi(a) shall be due beginning on the effective date of this Agreement and during the Lease Up Period. The Minimum Annual Service Charge as set forth in Section 1.2xvi(b) shall be due upon the expiration of the Lease Up Period. 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.

(b) The City acknowledges that the Entity has paid \$300,000 in prepayments which shall be credited against the Annual Service Charge as it becomes due.

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 1st day of the 7th year following Substantial Completion until the last day of the 7th 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 8th year following the Substantial Completion until the last day of the 8th 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 9th year following Substantial Completion until the last day of the 9th 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 10th 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

A. **Contribution.** The Entity has agreed to pay the City the sum of \$178,500 or as a contribution. The City acknowledges receiving \$63,000. The balance shall be due and payable as follows:

- i. \$57,750 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 is executed; and
- ii. \$57,750 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 is executed.

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 Annual Net Profits and any 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.

Section 6.3 Construction Permits

The estimated cost basis disclosed by the Entity's application and proposed Financial Agreement may, at the option of the City, be used as the basis for the construction cost in the issuance of any construction permit for the Project.

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.

All 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.

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 (xxi) 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 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 pays in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d); and 6) for projects that are not Substantially Complete, the new Entity is comprised of principals possessing substantially the same or better financial qualifications, experience and credit worthiness as the original Entity.

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 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 herein, but shall allow the City to proceed immediately to terminate the Agreement as provided herein. 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 1st of the year next ensuing. The Notice of Voluntary Termination must be received by the City no later than October 1st 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 Contribution 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 1st 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 4.7 as Material Conditions.

Section 13.2 Appeal of Assessment

In calculating the amount of the Staged 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), arising out of this 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:

272 Grove Street Urban Renewal, LLC
c/o Silverman Building, LLC
279 Grove Street
Jersey City, NJ 07302
Attn: Eric Silverman

With a copy to:

DeCoitiis, Fitzpatrick and Cole LLP
500 Frank W Burr Blvd
Suite 31
Teaneck, NJ 07666
Attn: Matthew C Karrenberg, Esq

unless prior to the 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/Termination of Prior Financial Agreement approved by Ordinance 07-052

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. Ordinance 07-052 adopted on March 28, 2007 was rescinded and the Financial Agreement executed pursuant to such authority is hereby terminated in its entirety and is of no force or effect.

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 Deeds

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

WITNESS:

272 GROVE STREET URBAN RENEWAL, LLC

City Clerk File No. Ord. 13.144

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 13.144

TITLE: ORDINANCE AUTHORIZING THE CITY OF JERSEY CITY TO SELL CITY OWNED PROPERTY LOCATED IN THE BOROUGH OF KINNELON, THE TOWNSHIP OF JEFFERSON, AND THE TOWNSHIP OF ROCKAWAY WHICH IS KNOWN AS THE SPLIT ROCK RESERVOIR

WHEREAS the City of Jersey City (City) is the owner of certain real property designated as Block 30, Lots 3 and 4 and Block 300, Lot 5 on the Borough of Kinnelon's tax map; Block 271, Lot 5 in the Township of Jefferson's tax map; Block 31001, Lot 12, Block 50001, Lots 1 and 18, and Block 50003, Lots 19 and 20 in the Township of Rockaway's tax map consisting of approximately nine hundred fifty three (953) acres (Property); and

WHEREAS, the State of New Jersey, Department of Environmental Protection (DEP), has determined that the Property is needed for the Highlands Greenway program which is intended to preserve the forests that surround and protect the source waters for approximately one third of the State's citizens; and

WHEREAS, DEP desires to purchase the Property from the City for the sum of Three Million One Hundred Forty Eight Thousand Dollars (\$3,148,000); and

WHEREAS, the City will retain ownership of the Split Rock dam and the water rights to the Split Rock Reservoir and does not need the Property for a municipal public purpose; and

WHEREAS, pursuant to N.J.S.A. 40A:12-13(b)(1), the City is authorized to transfer by private sale municipally owned property to the DEP.

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

A. Subject to such modifications as may be deemed necessary or appropriate by Corporation Counsel, the Mayor or Business Administrator is authorized to execute a contract of sale in substantially the form of the attached, a deed, and such other documents necessary to transfer certain property designated as Block 30, Lots 3 and 4 and Block 300, Lot 5 in the Borough of Kinnelon; Block 271, Lot 5 in the Township of Jefferson; Block 31001, Lot 12, Block 50001, Lots 1 and 18, and Block 50003, Lots 19 and 20 in the Township of Rockaway consisting of approximately nine hundred fifty three (953) acres (Property) to the State of New Jersey, Department of Environmental Protection (DEP) for the sum of Three Million One Hundred Forty Eight Thousand Dollars (\$3,148,000), subject to the following minimum terms and conditions:

- 1) the Property shall be used by the DEP for the Highlands Greenway project;
- 2) the City shall retain ownership of the Split Rock dam;
- 3) the City shall retain ownership of the water rights to the Split Rock Reservoir;
and
- 4) the conveyance shall be made subject to:
 - (a) easements and restrictions of record, if any,

(b) all Federal, State, County, and Municipal laws, statutes, codes, ordinances, rules and regulations affecting the Property, its use and occupancy.

- B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- C. 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.
- D. This ordinance shall take effect at the time and in the manner as provided by law.
- E. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

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

RR/kn
12-11-13

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required
Not Required

Project: HIGHLANDS GREENWAY

AGREEMENT FOR PURCHASE OF UNIMPROVED REAL PROPERTY

AGREEMENT made this _____ day of _____ 2013, by and between the City of Jersey City, 280 Grove Street, Jersey City, New Jersey, 07302 (hereinafter referred to as Seller), and

THE STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, with its principal office in the Department of Environmental Protection Building, 401 East State Street, Trenton, New Jersey 08625, (hereinafter referred to as Purchaser),

Whereas, Seller is the owner of real property described in paragraph 1 of this Agreement (hereinafter the Property), and

Whereas, Purchaser desires to purchase and the Seller desires to sell the Property:

Now, therefore, the Seller, for and in consideration of the sum of \$3,148,000 (Three Million One Hundred Forty Eight Dollars) (hereinafter Purchase Price) agrees to convey to the Purchaser, free from all liens, encumbrances or adverse claims, except as this Agreement may otherwise provide, by Bargain and Sale Deed with Covenants Against Grantor's Acts, the Property upon the following terms:

1. Property: All those certain lots, tracts or parcels of land, all rights therein, together with any buildings, improvements and fixtures thereon, situate in the Borough of Kinnelon, County of Morris, State of New Jersey, identified as Block 30, Lots 3 & 4 and Block 300, Lot 5; and situate in the Township of Jefferson, County of Morris, State of New Jersey, identified as Block 271, Lot 5; and situate in the Township of Rockaway, County of Morris, State of New Jersey, identified as Block 31001, Lot 12; Block 50001, Lots 1 and 18; Block 50003, Lots 19 and 20; excepting the concrete form dam, comprising a portion of Split Rock Road between Block 31001, Lot 12 and Block 50001, Lot 1. The dam, roadway and water rights to Split Rock Reservoir are being retained by Seller. The dam exclusion will except the underground portions of the dam from the DEP fee acquisition. The limit of this exception on the downstream side shall be 100 feet from centerline of road between Station 2+50 and Station 9+50, 400 feet from centerline of the road between Station 9+50 and Station 10+50 (to be adjusted in the field as necessary to assure historic furnace and iron works structures are within the excluded area), and 100 feet from centerline of the road between Station 10+50 and Station 13+50 (to be adjusted in the field as necessary to assure historic furnace and iron works structures are within the excluded area). The limit of this exception on the upstream side shall be 50 feet from centerline of road between Station 2+50 and Station 13+50. These stations and offsets are based on mapping entitled "Proposed Site Plan - 1" and "Proposed Site Plan-2" for "Rehabilitation of Split Rock Reservoir Dam" prepared by French & Parrello, dated June 2010.

As shown on the official municipal tax maps, and more particularly described by the metes and bounds description attached hereto as Schedule A. This description is to be used only

for the purposes of this Agreement. The actual metes and bounds description of the Property will be in accordance with the survey to be prepared by the Purchaser as stated in paragraph 4.

2. Purchase Price: It is understood and agreed that the Purchase Price is \$3,148,000, based upon the mutual assumption of the parties that the Property contains at least 1,350 acres of land.

3. Contingent upon Appropriation of Funds: Purchaser's obligation is contingent upon appropriation of funds for this acquisition on or before December 31, 2013. Unless Purchaser obtains and confirms appropriation by said date, either party shall thereafter have the right to terminate this Agreement upon 20 days written notice (with right of Purchaser to "cure" by giving Seller notice within 20 days and proceed to closing). Seller shall have no other rights/recourse arising from the inability of Purchaser to obtain funding.

4. Survey: The Purchaser at its sole cost and expense shall obtain a survey of the Property together with a metes and bounds description. That description shall be utilized as the description of the Property to be conveyed.

5. Title: Title to be conveyed shall be valid record title, marketable and insurable at regular rates by Purchaser's title insurance company subject only to exceptions acceptable to Purchaser. If such title cannot be conveyed by Seller at closing, Purchaser shall have the right to declare this Agreement null and void, in which case neither the Seller nor the Purchaser shall have any further obligation to the other.

6. Right of Entry: The Seller agrees to permit Purchaser or its duly authorized representatives onto the Property to examine, survey and undertake tests concerning the Property at any reasonable times prior to the closing of title.

7. Real Estate Taxes: Taxes for the first half of the year shall be paid in full by Seller when the closing takes place in the first half of the year. Real estate taxes shall be paid for the entire year by Seller when the closing takes place in the second half of the year. Taxes shall, however, be adjusted on a per diem basis as of the date of closing. Overpayment of taxes by Seller shall be reimbursed by separate payment voucher provided to seller for signature and processing.

8. Farmland Assessment/Rollback Taxes: The Seller represents that the Property is not subject to Farmland Assessment and that there are no rollback taxes due. Any rollback taxes shall be the sole responsibility of Seller. This provision shall survive closing of title.

9. Special Assessments: All assessments for public improvements, whether confirmed or unconfirmed, which have been commenced as of the date hereof, are to be paid in full by Seller prior to or at time of closing.

10. Condition of Property: The Property is being purchased in its condition as of the date of this Agreement, subject to Purchaser's approval of the results of on-site inspections. Seller shall undertake no actions nor permit others to undertake any actions which may affect the

existing condition of the Property (including removal of trees) without Purchaser's consent, except as may be otherwise expressly provided by this Agreement.

11. Bulk Sale Law Compliance: Purchaser and Seller acknowledge that this conveyance is subject to compliance with the "Bulk Sale Law," N.J.S.A. 54:50-38. Purchaser shall file a C-9600 form with the State of New Jersey Department of Treasury, Division of Taxation (Division), as soon as possible upon this Agreement being fully executed. Purchaser simultaneously shall submit to the Division a fully executed copy of this Agreement, along with an Asset Transfer Tax Declaration (TTD) form. The TTD form (attached as Schedule E) shall be completed and signed by the Seller at the time of signing this Agreement. The Seller shall be notified in writing by the Purchaser and/or the Division as to whether a possible claim for State taxes exists and an appropriate amount, if any, to be held in escrow by the Purchaser's attorney at the time of closing. If the Division determines that a bulk sale escrow must be held, the Purchaser shall retain the bulk sale escrow amount until such time as the Division issues a letter of clearance and officially authorizes the Purchaser's release of such escrowed funds to the Seller.

12. Warranty of No Solicitation: Seller warrants that this Agreement has not been procured in violation of Chapter 48 of the Laws of 1954, N.J.S.A. 52:34-15 et seq., or in violation of Executive Order No. 189.

13. No Broker: Seller represents that this is a direct sale and that no broker has participated in this transaction.

14. Possession: Purchaser may enter into and upon the Property on the date of closing of title and from that time take all rents, issues and profits.

15. Debris Removal: Seller agrees that any and all rubbish or debris located on the Property will be removed by Seller prior to closing.

16. Closing of Title: The parties anticipate that the closing of title will take place on or about December 21, 2013, at the Office of the Attorney General of New Jersey, Richard J. Hughes Justice Complex, Trenton, New Jersey, or by mail. This is a tentative closing date.

17. Closing Documents: Seller shall prepare and deliver to Purchaser at closing the appropriate documents of title, including Bargain and Sale Deed with Covenants Against Grantor's Acts, Affidavit of Consideration, Affidavit of Title, a 1099S Designation Agreement, GIT/REP 1, 2, or 3 (as appropriate), and any other necessary documents required by Purchaser or its title insurance company.

Seller agrees that the following language shall appear in the Deed:

A. Maintenance and ownership of dam

Seller will retain ownership of all portions of Split Rock Reservoir Dam, as described above in paragraph 1. Seller shall maintain the dam in compliance with any and all authorizations required by the Bureau of Dam Safety under the Safe Dam Act, N.J.S.A. 58:4-8.1 et seq., and N.J.A.C. 7:20-1.4 et seq. Seller shall also obtain any and all other necessary federal, state and local authorizations in connection with repair of the dam.

The Seller shall be responsible for all costs associated with any and all inspections, maintenance, or upgrades of the Split Rock Reservoir Dam required by the Bureau of Dam Safety and Flood Control. Seller shall be responsible for any and all other aspects of operation of the dam.

B. Indemnification

Seller shall defend, indemnify, protect, and save harmless the State, its officers, its agents, its servants, and its employees from and against any damage, claim, demand, liability, judgment, loss, expense, or cost (collectively "damage") arising or claimed to arise from, in connection with, or as a result of Seller's maintenance, attempted maintenance, or failure to maintain the dam structure identified in paragraph ___ above, regardless of whether such maintenance was undertaken by the Seller, its officers, its directors, its agents, its servants, its employees, its subcontractors, or any other person at its request, subject to its direction, or on its behalf. As nonrestrictive examples only, this indemnification shall apply, but shall not be limited, to a) any settlement by the State of any claim or judgment against the State or its agents, provided that Seller had the opportunity to participate in the settlement negotiation, and b) all attorney's fees, litigation costs, and other expenses of any nature, incurred by the State in connection with any damage. Seller a) shall immediately notify the State of any damage for which it or the State might be liable and b) shall, at its sole expense (i) appear, defend, and pay all charges for attorneys, all costs, and all other expenses arising in connection with any damage appear, defend, and pay all charges for attorneys, all costs, and all other expenses arising in connection with any damage and (ii) promptly satisfy and discharge any judgment rendered against the State or its agents, or any settlement entered into by the State for any damage.

This agreement to indemnify shall continue in full force and effect after the termination, expiration, or suspension of this agreement. Seller does not hereby agree to indemnify the State against damage to the extent it results from the State's tortious action or inaction for which it would be liable under the New Jersey Tort Claims Act.

18. Seller's Representations:

(a) The Seller represents that the Property shall be free of any tenancies or any written or oral licenses or leases affecting the Property at closing.

(b) The Seller represents that Seller has not permitted nor authorized the storage of any hazardous or toxic material on the Property.

(c) Seller shall set forth in the Affidavit of Title that the Property is not subject to the requirements of the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq. and N.J.A.C. 7:26B et. seq.

(d) The Seller represents that there are no underground storage tanks on the Property.

(e) The Seller represents that there are no improvements on adjoining properties which extend across the boundary lines of the Property.

(f) The Seller represents that Seller is in substantial compliance with the laws, orders and regulations of each governmental department, commission, board or agency having jurisdiction over the Property, and has received no notices of non-compliance or violation.

(g) These representations shall survive closing of title.

19. Miscellaneous:

(a) Heirs, etc. Bound: For the performance of any and all covenants or representations herein, the parties hereby bind themselves, their respective heirs, executors, administrators, successors and assigns.

(b) Captions and Headings: Captions and headings used herein are for reference only and shall in no way be deemed to define, limit, explain or amplify any provision hereof.

(c) Severability: In case any term or provision of this Agreement shall be held to be invalid, illegal or unenforceable, in whole or in part, neither the validity of the remaining part of such term or provision, nor the validity of any other provision of this Agreement shall in any way be affected.

20. Date of Agreement: This Agreement shall become final upon signing by the Purchaser.

21. Entire Agreement: It is understood and agreed that all understandings and agreements previously had between the parties are merged in this Agreement, which alone fully and completely expresses their understanding, and that this Agreement is entered into after full investigation, neither party relying upon any statement or representation by the other which is not contained in this Agreement.

IN WITNESS WHEREOF, the Seller and the Purchaser have signed this Agreement, and in the case of a corporation this Agreement has been signed by its proper corporate officers and its corporate seal has been affixed.

Purchaser:

State of New Jersey
Department of
Environmental Protection

Rich Boornazian
Assistant Commissioner for
Natural and Historic Resources

Witness as to Signature of Seller

Seller:

Approved as to Form by:

Deputy Attorney General
State of New Jersey

06/15/2011

SCHEDULE A

Metes and Bounds Description

() Page(s)

SCHEDULE B

P.L.2005, c.51 and E.O 117: Certification and Disclosure

NOT APPLICABLE

(0) Pages

SCHEDULE C

P.L.2005, c.51: Ownership Disclosure Form

NOT APPLICABLE

SCHEDULE D

P.L.2005, c.271: Vendor Certification and Political Contribution Disclosure Form

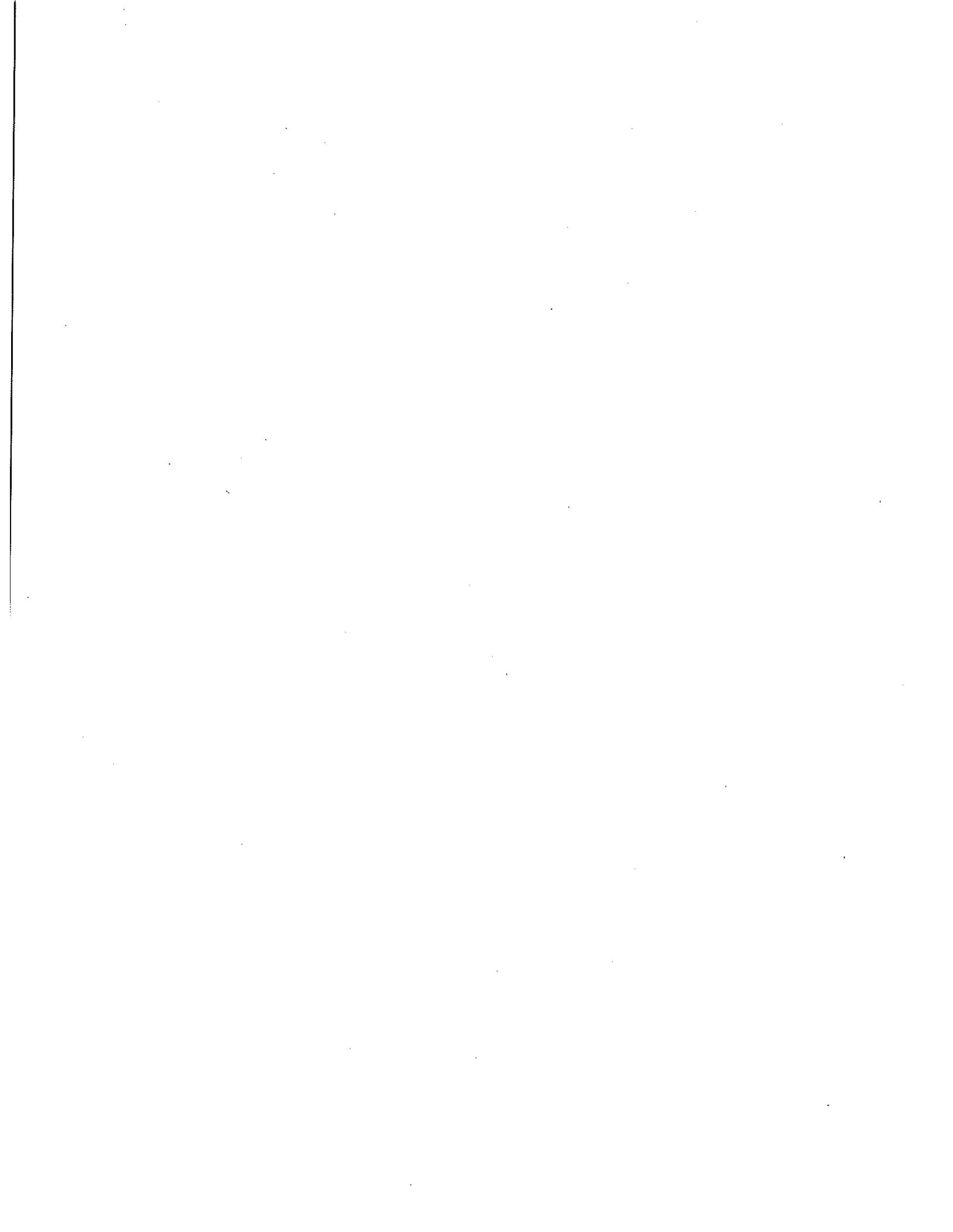
NOT APPLICABLE

SCHEDULE E

Asset Transfer Tax Declaration form

(4) Pages

06/14/12



City Clerk File No. Ord. 13.145

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 13.145

TITLE: **AN ORDINANCE AUTHORIZING THE CITY OF JERSEY CITY TO
LEASE 199-205 SUMMIT AVENUE, JERSEY CITY WITH 199-201
SUMMIT AVENUE, LLC**

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

WHEREAS, the City of Jersey City ("City") needs to lease space for the operation of the Department of Health and Human Services or other City offices, bureaus, clinics of the City; and

WHEREAS, 199-201 Summit Avenue, LLC ("Summit") has proposed to lease the City space as listed on the official tax map of Jersey City as 199-205 Summit Avenue a/k/a Block 1906, Lots N1 and N2 together with fifteen (15) classroom trailers which include two (2) trailers for use as combined men/women toilet facility trailers and a free standing garage structure located on Storms Ave, Jersey City ("Leased Premises"); and

WHEREAS, the lease shall commence on February 1, 2014, and terminate on February 29, 2016, subject to the City's option to renew the lease for an additional three (3) years, to be approved by the Municipal Council as individual one (1) year options; and

WHEREAS, the City shall pay to Summit as rent the sum of \$300,000.00 per year, payable in equal and consecutive monthly installments of \$25,000.00 per month for the term of the lease; and

WHEREAS, if the City renews the lease for the additional three (3) year option, rent shall increase based upon the Consumer Price Index as promulgated by the U.S. Bureau of Labor Statistics; and

WHEREAS, in addition to the annual rent, the City shall pay all charges for sewer, water or other utilities used by the City, which are or may be assessed upon the leased premises; and

WHEREAS, the City will be responsible for the routine maintenance of the leased premises and Summit shall be responsible for maintaining the overall premises, including the physical structure and HVAC systems; and

WHEREAS, pursuant to N.J.S.A. 40A:12-1, 40A:12-3 and 40A:12-5 (1), a municipality may by ordinance, acquire property by lease without public bidding; and

WHEREAS, funds in the amount of \$275,000.00 are available in Account No. 01-201-31-432-304.

AN ORDINANCE AUTHORIZING THE CITY OF JERSEY CITY TO LEASE 199-205 SUMMIT AVENUE, JERSEY CITY WITH 199-201 SUMMIT AVENUE, LLC

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

- 1. Subject to such modifications as may be deemed necessary or appropriate by the Corporation Counsel, the Mayor or Business Administrator is authorized to execute the attached Lease Agreement with 199-201 Summit Avenue, LLC for space located at 199-205 Summit Avenue, Block 1906, Lots N1 and N2 together with fifteen (15) classroom trailers which include two (2) trailers for use as combined men/women toilet facility trailers and a free standing garage structure located on Storms Ave, Jersey City; and
- 2. The term of the Lease Agreement shall be for two (2) years commencing on February 1, 2014, and shall terminate on February 29, 2016, subject to the City's option to renew the lease for an additional three (3) years, to be approved by the Municipal Council as individual one (1) year options to renew the lease; and
- 3. The annual rent shall be \$300,000.00 per year, payable in monthly installments of \$25,000.00 per month for the two (2) year term of the lease; and
 - A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
 - B. This ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
 - C. This ordinance shall take effect at the time and in the manner as provided by law.
 - D. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

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

I, _____, Donna Mauer, Chief Financial Officer, hereby certify that there are funds in the amount of \$275,000.00 available for the payment of the above Ordinance in Account No. 01-201-31-432-304.

IW
12/11/13

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required
Not Required

**199-201 SUMMIT AVENUE, LLC, A NEW JERSEY LIMITED
LIABILITY COMPANY**

TO

THE CITY OF JERSEY CITY

THIS LEASE AGREEMENT, made this ____ day of February, 2014, between **199-201 Summit Avenue, LLC**, a limited liability company of the State of New Jersey, with offices at 44 State Street, Jersey City, New Jersey 07304, herein designated as the Landlord, and **THE CITY OF JERSEY CITY**, a municipality in the State of New Jersey, located at City Hall, 280 Grove Street, Jersey City, New Jersey, 07302 Attn.: The Business Administrator, Room 108 herein designated as the Tenant and/or the City;

WITNESSETH that, the Landlord does hereby lease to the Tenant and the Tenant does hereby rent from the Landlord, the following described Premises:

That portion of the land and premises located at 199-205 Summit Avenue Jersey City, New Jersey more particularly listed on the official tax map of the City of Jersey City as Block 1906, Lots N1 and N2 together with fifteen (15) classroom trailers which include two trailers for use as combined mens/womens toilet facility trailers located thereon and additionally a free standing garage structure located on Storms Avenue, Jersey City, New Jersey as more specifically designated in Schedule A attached hereto (the "Premises").

UPON the following Conditions and Covenants:

1st: PAYMENT OF RENT.

- (A) The Tenant covenants and agrees to pay to the Landlord the following:
- (i) INTENTIONALLLY OMITTED.
 - (ii) The Fixed Rent (as defined in (iii) below) and the Additional Rent (as defined in (B) below) shall commence on upon the issuance of a Certificate of Occupancy or Continued Certificate of Occupancy issued for the Premises for use as office, clinics and other City uses (the "Commencement Date") and continue to be payable on the first day of each and every calendar month thereafter during the Term or any Extended Term or the 2nd Extended Term (as defined in Section 3 below).
 - (iii) From the Commencement Date, the Tenant shall pay to the Landlord through and including the Expiration Date the sum of \$300,000.00 per annum, payable in equal and consecutive monthly installments of \$25,000.00 (the "Fixed Rent"), in advance on the Commencement Date and on the first day of each month and every month during the Term or any Extended Term without any set-off, offset, abatement or deductions whatsoever, (Extended Term as defined in Section 3 below). If the Tenant takes possession of the Premises any time during the month (because the Premises was unavailable or uninhabitable due to the required construction improvements), the Rent shall be pro-rated for the actual days of the month the Premises is occupied. After this pro-rated period, the Rent shall be due each month as described above.

- (iv) The rent shall remain the same for the first two years. The rent shall increase each year for the three option years thereafter based upon the increase (but not decrease) in the Index (as defined below). The parties shall use the Index in effect 90 days before the increase is to occur (the "Index Date") as compared to the Index in effect one year prior to the Index Date.

"Index" means the average for all items shown on the Consumer Price Index for All-Urban Consumers (CPI-U), for the New York, New Jersey and Northeast region as promulgated by the U.S. Bureau of Labor Statistics using the years 1982-1984 as the base of 100. If that index is no longer published, the index most closely comparable, after making such adjustments as may be prescribed by the agency publishing same or as otherwise may be required to account for the changes therein).

(v) **Late Charges.**

If Tenant shall fail to make payment of any installment of Rent or any additional rent within ten (10) days after the date when such payment is due, Tenant shall pay to Landlord, in addition to such installment of Rent or such additional rent, as the case may be, as a late charge and as additional rent, a sum based on a rate equal to the less of (i) five percent (5%) per annum above the then current prime rate charged by Citibank, N.A. or its successor and (ii) the maximum rate permitted by applicable law, of the amount unpaid computed from the date such payment was due to and including the date of payment, but in no event shall interest be computed and payable for less than a full calendar month.

(vi) **Security Deposit.**

Concurrently with the execution of this Lease, Tenant shall deposit with Landlord the sum of \$50,000.00 as security for the punctual performance by Tenant of each and every obligation of Tenant under this Lease. In the event of any default by Tenant, in addition to and without prejudice to any other rights and remedies available to Landlord, Landlord may apply or retain all or any part of such security to cure the default or to reimburse Landlord for any sum which landlord may spend by reason of the default. In the case of every such application or retention, Tenant shall, on demand, pay to Landlord the sum applied or retained which shall be added to the security deposit so that same shall be restored to its original amount. If, at the end of the lease term, Tenant is not in default under this Lease, but not otherwise, the security deposit, or any balance thereof, shall be returned to Tenant, without interest. It is expressly understood and agreed that the within security deposit is not an advance payment of or on account of the rent herein reserved or any part or installment thereof or a measure of Landlord's damages.

(B) The Tenant will be responsible for the routine maintenance of the premises. The Landlord will be responsible for maintaining the overall premises, including for example the physical structure and HVAC systems.

2nd: COMMENCEMENT DATE.

The Initial Term of this Lease shall commence on the 1st day of February, 2014 and terminate on the last day of February, 2016.

3rd: TERM AND OPTION.

The Initial Term of this lease shall be two (2) years (the "Term") commencing on the Commencement Date and ending on the date which is the second year after the Commencement Date, (the "Date of Surrender"). On the Date of Surrender, the Premises shall be delivered to the Landlord in "broom clean" condition with all the keys to the Premises.

During the Initial Term the Tenant shall have the option to extend the term of this lease, provided that same is in full force and effect and Tenant is not in default hereunder and on the same terms and conditions for an additional three (3) years as individual one (1) year options (the "Extended Term"). The Tenant shall deliver a notice in writing to the Landlord at least 90 days but not more than 180 days prior to the expiration of the Initial Term with time being of the essence to exercise the option to extend the lease.

4th: PERMITTED USE. The permitted use of the Premises shall only mean the operation of the Department of Health and Human Services or other City offices, bureaus, clinics, or City. Tenant shall not permit the premises or any part thereof to be used for (i) gambling or gaming activities, obscene or pornographic purposes or any sort of commercial sex establishment, and (ii) possession, storage, manufacture or sale of alcohol, drugs or narcotics..

CERTIFICATE OF OCCUPANCY/EARLY TENANT ACCESS.

Tenant shall not at any time use or occupy the Premises in violation of the certificate of occupancy issued for the Premises and in the event that any department of the City of Jersey City or State of New Jersey shall hereafter at any time contend and/or declare by notice, violation, order or in any other manner whatsoever that the premises are used for a purpose which is a violation of such certificate of occupancy whether or not such use shall be a Permitted Use, Tenant shall, upon five (5) days written notice from Landlord, immediately discontinue such use of the Premises. Failure by Tenant to discontinue such use after such notice shall be considered a default in the fulfillment of a covenant of this Lease and Landlord shall have the right to terminate this Lease immediately, and in addition thereto shall have the right to exercise any and all rights and privileges and remedies given to Landlord hereunder.

5th: REPAIRS AND CARE.

The Tenant will be responsible for the routine maintenance of the premises. The Landlord will be responsible for maintaining the overall premises, including for example the physical structure and HVAC systems.

Considering the Premises has been vacant and unused for a period of time, the Landlord shall make such improvements to the Premises that will make it usable for the City's intentions.

- (A) The Landlord shall deliver the facility to the City with all mechanical systems operational, including water, sanitary, electrical, and HVAC systems. Any mold or water leaks will be remediated or repaired. Any damaged or missing windows, doors, interior and exterior lighting fixture, toilets, ceiling panels/tiles, interior or exterior walls, toilet partitions, rotted or damaged wood, gutters and downspouts, walkways, railing banisters, staircases, and ramps will be repaired or replaced. The Landlord will ensure that all animals, e.g. rodents or cats, have been removed and the Premises has been treated for all pests and is delivered pest-free.

The Landlord will provide a up-to-date Certificate of Occupancy for the Premises that is commensurate with the City's intending uses of the Premises

- (B) Inspection: Prior to commencement the City has the right to inspect the premises to ensure the Landlord has delivered the Premises as described in (A) above. This "walk-through" will be conducted with the Landlord or his representative in attendance.

The City's Division of Architecture, in coordination with the City's Division of Construction Code Official, shall conduct an ADA assessment on the Premises prior to the Commencement date. The Landlord does not commit to remedy any new ADA requirement in this agreement, but does agree to repair any damaged ADA element currently part of the Premises.

6th: GLASS, ETC. DAMAGE REPAIRS.

The Tenant is responsible for any damage that is a direct result of the Tenant's use of the Premises. Any other damage is the responsibility of the Landlord, e.g. damage by storm.

7th: ALTERATIONS AND IMPROVEMENTS.

Tenant shall submit all plans for interior and exterior construction for Landlord's written approval prior to commencement of work. No alterations, additions or improvements shall be made, and no climate regulating, air conditioning, cooling, heating or sprinkler systems, television or radio antennas, heavy equipment, apparatus and fixtures shall be installed in or attached to the leased Premises without the written consent of the Landlord, which shall not be unreasonable withheld or delayed. Unless otherwise provided herein, all such alterations, additions or improvements and systems, when made, installed in or attached to the said Premises shall belong to and become the property of the Landlord and shall be surrendered with the Premises and as part thereof upon the expiration or sooner termination of this lease, without hindrance, molestation or injury. This provision does not apply to any machinery installed by the tenant provided same is removed without damaging the Landlord's Premises. Notwithstanding this paragraph, the Landlord gives permission to the Tenant to make repairs and or alterations to the interior of the Premises provided the Tenant has obtained all necessary permits and provides

the Landlord with all liability insurance naming the Landlord as a co-insured.

8th: SIGNS.

The Tenant shall not place nor allow to be placed any signs of any kind whatsoever, upon, in or about the said Premises or any part thereof, except of a design and structure and in or at such places as may be indicated and consented to by Landlord. In the case the Landlord or Landlord's agents, employees or representatives shall deem it necessary to remove any such signs in order to paint or make any repairs, alterations or improvements in or upon said Premises or any part thereof, they may be so removed, but shall be replaced with dispatch at the Landlord's expense when the said repairs, alterations or improvements shall have been completed. Signs permitted by the Landlord shall at all times conform with all municipal ordinances or other laws and regulations applicable thereto.

9th: UTILITIES – ADDITIONAL RENT.

The Tenant shall pay when due all the rents or charges for sewer and water or other utilities used by the Tenant, which are or may be assessed or imposed upon the leased Premises or which are or may be charged to the Landlord by the suppliers thereof during the term hereof, and if not paid, such rents or charges shall be added to and become payable as additional rent with the installment or rent next due or within thirty (30) days of demand therefore, whichever occurs sooner. It is specifically agreed that the Landlord shall not be responsible for any utility charges of any nature what-so-ever.

10th: COMPLIANCE WITH LAWS, ETC.

The Tenant shall promptly comply with all laws, ordinances, rules, regulations, requirements and directives of the Federal, State and Municipal Government or Public Authorities and of all their departments, bureaus and subdivisions, applicable to and affecting the said Premises, their use and occupancy, for the correction, prevention and abatement of nuisances, violations or other grievances in, upon or connected with the said Premises, during the term hereof; and shall promptly comply with all orders, regulations, requirements and directives of the Board of Fire Underwriters or similar authority and of any insurance companies which have issued or are about to issue policies of insurance covering the said Premises and its contents for the prevention of fire or other casualty, damage or injury, at the Tenant's own cost and expense. Landlord warrants and represents that all laws, ordinances, rules, regulations and directives of all governmental authorities (and the Board of Fire Underwriters) having jurisdiction thereof have been complied with by Landlord. Tenant shall not be required to comply therewith unless its acts were the cause of the violation or non-compliance.

11th: LIABILITY INSURANCE AND WAIVER OF SUBROGATION.

The Tenant, at Tenant's own cost and expense, shall provide and keep in full force for the benefit of the Landlord, during the term hereof, an "All Risk" public liability insurance, insuring the

Landlord against any and all liability or claims of liability arising out of, occasioned by or resulting from any accident or otherwise in or about the leased Premises, for injuries to any person or persons. The following is the City's official Certificate of Self Insurance issued by the City's Risk Manager.

City of

JERSEY CITY

Office of Risk Management

280 Grove Street, Room B-6

Jersey City, N.J. 07302

(201) 547-5034

Fax 547-4761

CERTIFICATE OF SELF INSURANCE

The City of Jersey City is a municipal corporation of the State of New Jersey. Pursuant to the authority provided in N.J.S.A 40A:10-1, et. Seq., the City of Jersey City has established a self-insured program to provide workers' compensation, general liability and automobile liability protection for the City's operations as follows:

1. Workers' Compensation - Star Insurance Co., Policy # WCE 0705964, N.J. Statutory coverage with a \$1,000,000 per claim retention
2. General/Automobile Liability - Argonaut Insurance, Policy # PE4631054-00, \$2 million limit per occurrence with a \$1,000,000 per claim retention.

This program covers the City of Jersey City, its officers and employees from any and all claims and demands of third persons arising out of or related to the delivery of municipal duties. This coverage shall extend to and include any and all liability, damage or expense created by any injury or injuries sustained to persons or property for the following activity.

Peter Soriero

Peter Soriero
Risk Manager
July 1, 2013

12th: ASSIGNMENT.

The Tenant shall not assign, mortgage or hypothecate this lease nor sublet or sublease the Premises or any part thereof. If the Tenant is a corporation, there shall be no change in the shareholders, officers or directors without the written consent of the Landlord. If the Tenant is a limited liability company, there shall be no change in the members, officers or manager without the written consent of the Landlord. If the Tenant is a partnership, there shall be no change in the partners without the written consent of the Landlord.

13th: RESTRICTION OF USE.

The Tenant shall not occupy or use the leased Premises or any part thereof, nor permit or suffer the same to be occupied or used for any purposes other than as herein limited, nor for any purpose deemed unlawful, disreputable, or extra hazardous, on account of fire or other casualty.

14th: MORTGAGE PRIORITY.

This lease shall not be a lien against the said Premises in respect to any mortgages that may hereinafter be placed upon said Premises. The recording of such mortgage or mortgages shall have preference and precedence and be superior and prior in lien to this lease, irrespective of the date or recording and the Tenant agrees to execute any instruments, without cost, which may be deemed necessary or desirable, to further effect and subordination of this lease to any such mortgage or mortgages. A refusal by the Tenant to execute such instrument shall entitle the Landlord to the option of canceling this lease, and the term hereof is hereby expressly limited accordingly. The mortgagee of any future mortgage shall not join Tenant in any mortgage foreclosure proceedings unless the Tenant is in default under the terms and conditions of this lease.

In the event of any foreclosure of any mortgage or any conveyance in lieu of foreclosure, provided that the Tenant shall not then be in default beyond any grace period under this Lease and that this Lease shall be in full force and effect, then mortgagee shall neither terminate this Lease nor join the Tenant in foreclosure proceedings, nor disturb Tenant's possession, and this Lease shall continue in full force and effect as a direct lease between Tenant and mortgagee.

15th: CONDEMNATION AND EMINENT DOMAIN.

If the land and Premises leased herein, or of which the leased Premises are a part, or, any portion thereof, shall be taken under eminent domain or condemnation proceedings, or if suit or other action shall be instituted for the taking or condemnation thereof, or if in lieu of any formal condemnation proceedings or actions the Landlord shall grant an option to purchase and or shall sell and convey the said Premises or any portion thereof, to the governmental or other public authority, agency, body or public utility, seeking to take said land and Premises or any portion thereof, then this lease, at the option of the Landlord, shall terminate, and the term hereof shall end as of such date as the Landlord shall fix by notice in writing; and the Tenant shall have no claim or right to claim or be entitled to any portion of any amount which may be awarded as damage or paid as the result of such condemnation proceedings or paid as the purchase price for such option, sale or conveyance in lieu of formal condemnation proceedings; and all rights of the Tenant to damages, if any, are hereby assigned to the Landlord. The Tenant agrees to execute and deliver any instruments, at the expense of the Landlord, as may be deemed necessary or required to expedite any condemnation proceedings or to effectuate a proper transfer of title to such governmental or other public authority, agency, body or public utility seeking to take or acquire the said lands and Premises or any portion thereof. The Tenant covenants and agrees to vacate

the said Premises, remove all the Tenant's personal property there from and deliver up peaceable possession thereof to the Landlord or to such other party designated by the Landlord in the aforementioned notice. Failure by the Tenant to comply with any provisions in this clause shall subject the Tenant to such costs, expenses, damages and losses as the Landlord may incur by reason of the Tenant's breach hereof. Nothing contained herein shall prevent the Tenant from making a claim for its improvements.

16th: FIRE AND OTHER CASUALTY.

In case of fire or other casualty, the Tenant shall give immediate notice to the Landlord. If the Premises shall be partially damaged by fire, the elements or other casualty, the Landlord shall repair the same as speedily as practicable, but the Tenant's obligation to pay the rent hereunder shall not cease. The Tenant shall pay rent as long as the Premises is usable.

However, if the Tenant cannot fully conduct its business from the Premises due to same, the rent shall abate in proportion to the amount of space, which is unusable by the Tenant. Once the repairs are completed, all rents shall be reinstated, without notice.

If, in the opinion of the Landlord, the Premises be so extensively and substantially damaged as to render them uninhabitable, then the rent shall cease until such time as the Premises shall be made tenantable by the Landlord. However, if, in the opinion of the Landlord, the Premises be totally destroyed or so extensively and substantially damaged as to require practically a rebuilding thereof, then the rent shall be paid up to the time of such destruction and then and from thenceforth this lease shall come to an end. In no event however, shall the provisions of this clause become effective or be applicable, if the fire or other casualty and damage shall be the result of the carelessness, negligence or improper conduct of the Tenant or the Tenant's agents, employees, guests, licensees, invitees, subtenants, assignees or successors. In such case, the Tenant's liability for the payment of the rent and the performance of all covenants, conditions and terms hereof on the Tenant's part to be performed shall continue and the Tenant shall be liable to the Landlord for the damage and loss suffered by the Landlord. If the Tenant shall have been insured against any of the risks herein covered, then the proceeds of such insurance shall be paid over to the Landlord to the extent of the Landlord's costs and expenses to make the repairs hereunder, and such insurance carriers shall have no recourse against the Landlord for reimbursement.

17th: REIMBURSEMENT OF LANDLORD.

If the Tenant shall fail or refuse to comply with and perform any conditions and covenants of this lease, the Landlord may, upon prior notice to the Tenant, if the Landlord so elects, carry out the performance of such conditions and covenants, at the cost and expense of the Tenant, and the said cost and expense shall be payable on demand, or at the option of the Landlord shall be added to the installment of rent due immediately thereafter but in no case later than one month after such demand, whichever occurs sooner, and shall be due and payable as such. This remedy shall be in addition to such other remedies as the Landlord may have hereunder by reason of the

breach by the Tenant of any of the covenants and conditions in this lease contained.

18th: INSPECTION AND REPAIRS.

The Tenant agrees that the Landlord and the Landlord's agents, employees or other representatives, shall have the right to enter into and upon the said Premises or any part thereof, at all reasonable hours, upon prior notice, for the purpose of examining the same or making such repairs or alteration therein as may be necessary for the safety and preservation thereof. This clause shall not be deemed to be a covenant by the Landlord nor be construed to create an obligation on the part of the Landlord to make such inspection or repairs.

19th: CONDEMNATION.

- (A) If the whole of the Premises shall be acquired or condemned for any public or quasi-public use or purpose, this Lease and the Term shall end as of the date of the vesting of title with the same effect as if said date were the Expiration Date. If only a part of the Premises shall be so acquired or condemned then (i) except as hereinafter provided in this subsection A, this Lease and the Term shall continue in force and effect but, from and after the date of the vesting of title, the Rent shall be reduced in the proportion which the area of the part of the Premises so acquired or condemned bears to the total area of the Premises immediately prior to such acquisition or condemnation; (ii) Landlord, at Landlord's option, may give to Tenant, within sixty (60) days next following the date upon which landlord shall have received notice of vesting of title, a five (5) days notice of termination of this Lease; and (iii) if the part of the Premises so acquired or condemned shall contain more than thirty percent (30%) of the total area of the Premises immediately prior to such acquisition or condemnation, or if, by reason of such acquisition or condemnation, Tenant no longer has reasonable means of access to the Premises, Tenant, at Tenant's option, may give to Landlord, within sixty (60) days next following the date upon which Tenant shall have received notice of vesting of title, a five (5) days notice of termination of this Lease. If any such five (5) days notice of termination is given by Landlord or Tenant this Lease and the Term shall come to an end and expire upon the expiration of said five (5) days with the same effect as if the date of expiration of said five (5) days were the Expiration Date. If a part of the Premises shall be so acquired or condemned and this Lease and the Term shall not be terminated pursuant to the foregoing provisions of this subsection A, Landlord, at Landlord's expense, shall restore that part of the Premises not so acquired or condemned to a self-contained rental unit, and the rent payable hereunder shall be permanently equitably abated. In the event of any termination of this Lease and the Term pursuant to the provisions of this subsection A, the Rent shall be apportioned as of the date of sooner termination and any prepaid portion of Rent for any period after such date shall be refunded by Landlord to Tenant.
- (B) Award. In the event of any such acquisition or condemnation of all or any part of the Premises, Landlord shall be entitled to receive the entire award for any such

acquisition or condemnation, Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired portion of the Term and Tenant hereby expressly assigns to Landlord all of its right in and to any such award. Nothing contained in this subsection B shall be deemed to prevent Tenant from making a claim in any condemnation proceedings for the then value of any furniture, furnishings and fixtures installed by and at the sole expense of Tenant and included in such taking, provided that such award shall not reduce the amount of the award otherwise payable to Landlord.

20th: INCREASE OF INSURANCE RATES DUE TO CHANGE IN CITY'S USE.

Should the Tenant begin a use of the Premises that requires the Landlord to alter his insurance coverage and results in an increase in insurance costs, this cost increase shall be paid by the Tenant. For example, if the Tenant begins to use the Premises to prepare hot meals in a fully-operational kitchen, the Landlord may be compelled to alter his insurance to cover the commercial kitchen. The resulting insurance cost increase shall be paid by the Tenant. Outside of this narrowly-defined covenant, the Landlord shall be solely responsible for all other insurance cost increases.

21st: REMOVAL OF TENANT'S PROPERTY.

Any equipment, fixtures, goods or other property of the Tenant, not removed by the Tenant upon the termination of this lease, or upon any quitting, vacating or abandonment of the Premises by the Tenant, or upon the Tenant's eviction, shall be considered as abandoned and the Landlord shall have the right, without any notice to the Tenant, to sell or otherwise dispose of the same, at the expense of the Tenant, and shall not be accountable to the Tenant for any part of the proceeds of such sale, if any subject to the Uniform Commercial Code, Title 12A of New Jersey Statutes.

22nd: REMEDIES UPON TENANT'S DEFAULT.

(A) EVENTS OF DEFAULT. This Lease and the term and estate hereby granted are subject to the limitations that upon the occurrence, at any time prior to or during the Term, of any one or more of the following events (referred to as "Events of Default"):

- (i) if Tenant shall default in the payment when due of any installment of Rent or in the payment when due of any additional rent, and such default shall continue for a period of five (5) days after notice by Landlord to Tenant of such default;
or
- (ii) if Tenant shall default in the observance or performance of any term, covenant or condition of this Lease on Tenant's part to be observed or performed (other than the covenants for the payment of Rent and additional rent) and Tenant shall fail to remedy such default within thirty (30) days after notice by Landlord to Tenant of such default, or if such default is of such a nature that it cannot be completely remedied within said period of thirty (30) days and

Tenant shall not commence within said period of thirty (30) days, or shall not thereafter diligently prosecute to completion all steps necessary to remedy such default not to exceed sixty (60) days in the aggregate; or

- (iii) if Tenants interest in this Leas shall devolve upon or pass to any person, whether by operation of law or otherwise; or
- (iv) if Tenant shall file a voluntary petition in bankruptcy or insolvency, or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, or shall make an assignment for the benefit of creditors or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or of all or any part of Tenant's property; or
- (v) if within ninety (90) days after the commencement of any proceeding against Tenant, whether by the filing of a petition or otherwise, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, such proceeding shall not have been dismissed, or if, within ninety (90) days after the appointment of any trustee, receiver or liquidator of Tenant, or of all or any part of Tenant's property, without the consent or acquiescence of Tenant, such appointment shall not have been vacated or otherwise discharged, or if any execution or attachment shall be issued against Tenant or any of Tenant's property pursuant to which the Premises shall be taken or occupied;

then, in any of said cases, at any time prior to or during the Term, of anyone or more of such Events of Default, Landlord, at any time thereafter, at Landlord's option, may give to Tenant a five (5) days notice of termination of this Lease and, in the event such notice is given, this Lease and the Term shall come to an end and expire (whether or not the Term shall have commenced) upon the expiration of said five (5) days with the same effect as if the date of expiration of said five (5) days were the Expiration Date, but Tenant shall remain liable for damages as provided in Article 16 hereof.

If there should occur any default on the part of the Tenant in the performance of any conditions and covenants herein contained, or if during the term hereof the Premises or any part thereof shall be or become abandoned or deserted, vacated or vacant, or should the Tenant be evicted by summary proceedings or otherwise, the Landlord, in addition to any other remedies herein contained or as may be permitted by law, may either by force or otherwise, without being liable for prosecution therefore, or for damages, re-enter the said Premises and the same have and again possess and enjoy; and as agent for the Tenant or otherwise, re-let the Premises and receive the rents therefore and apply the same, first to the payment of such expenses, reasonable attorney fees and costs, as the Landlord may have been put to re-entering and repossessing the same and

in making such repairs and alterations as may be necessary; and second to the payment of the rents due hereunder. The Tenant shall remain liable for such rents as may be in arrears and also the rents as may accrue subsequent to the re-entry by the Landlord, to the extent of the difference between the rents reserved hereunder and the rents, if any, received by the Landlord during the remainder of the unexpired term hereof, after deducting the aforementioned expenses, fees and costs; the same to be paid as such deficiencies arise and are ascertained each month.

24th: NON-LIABILITY OF LANDLORD.

Unless same is caused by the willful conduct of Landlord, its agent, employees, servants, invitees or caretakers, the Landlord shall not be liable for any damage or injury which may be sustained by the Tenant or any other person, as a consequence of the failure, breakage, leakage or obstruction of the water, plumbing, steam, sewer, waste or soil pipes, roof, drains, leaders, gutters, valleys, downspouts, or the like or of the electrical, gas, power, conveyor, refrigeration, sprinkler, air-conditioning or heating systems, elevators or hoisting equipment or by reason of the elements; or resulting from the carelessness, negligence or improper conduct on the part of any other Tenant or of the Landlord or the Landlord's or this or any other Tenant's agent, employees, guests, licensees, invitees, subtenants, assignees or successors; or attributable to any interference with, interruption of or failure beyond the control of the Landlord of any services to be furnished or supplied by the Landlord.

25th: NON-WAIVER BY LANDLORD.

The various rights, remedies, options and elections of the Landlord, expressed herein, are cumulative and the failure of the Landlord to enforce strict performance by the Tenant of the conditions and covenants of this lease or to exercise any election or option or to resort or have recourse to any remedy herein conferred or the acceptance by the Landlord of any installment of rent after any breach by the Tenant, in any one or more instances, shall not be construed or deemed to be a waiver or a relinquishment for the future by the Landlord of any such conditions and covenants, options, elections or remedies, but the same shall continue in full force and effect.

26th: NON-PERFORMANCE BY LANDLORD.

This lease and the obligation of the Tenant to pay the rent hereunder and to comply with the covenants and conditions hereof, shall not be affected, curtailed, impaired or excused because of the Landlord's inability to supply any service or material called for herein, by reason of any rule, order, regulation or preemption by any governmental entity, authority, department, agency or subdivision or for any delay which may arise by reason of negotiations for the adjustment of any fire or other casualty loss or because of strikes or other labor trouble or for any cause beyond the control of the Landlord.

27th: VALIDITY OF LEASE.

The terms, conditions, covenants and provisions of this lease shall be deemed to be severable. If

any clause or provision herein contained shall be adjusted to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision herein, but such other clauses or provisions shall remain in full force and effect.

28th: NOTICES.

All notices required under the terms of this lease shall be given and shall be complete by mailing such notices by certified or registered mail, return receipt requested, to the address of the parties as shown at the head of this lease, or to such other address as may be designated in writing, which notice of change of address shall be given in the same manner.

29th: TITLE AND QUIET ENJOYMENT.

The Landlord covenants and represents that the Landlord is the owner of the Premises herein leased and has the right and authority to enter into, execute and deliver this lease; and does further covenant that the Tenant on paying the rent and performing the conditions and covenants herein contained, shall and may peaceably and quietly have, hold and enjoy the leased Premises for the term aforementioned.

30th: ENTIRE CONTRACT.

This lease contains the entire contract between the parties. No representative, agent or employee of the Landlord has been authorized to make any representations or promises with reference to the within letting or to vary, alter or modify the terms hereof. No additions, changes or modifications, renewals or extensions hereof shall be binding unless reduced to writing and signed by the Landlord and the Tenant.

31st: MECHANICS' LIENS.

If any mechanics' or other liens shall be created or filed against the leased Premises by reason of labor performed or materials furnished for the Tenant in the erection, construction, completion, alteration, repair or addition to any building or improvement, the Tenant shall within thirty (30) days thereafter, at the Tenant's own cost and expense, cause such lien or liens to be satisfied and discharged of record together with any Notices of Intention that may have been filed. Failure to do so shall entitle the Landlord to resort to such remedies as are provided herein in the case of any default of this lease, in addition to such as are permitted by law.

32nd: INTENTIONALLY OMITTED.

33rd: ADDITIONAL RENTAL.

Additional rental shall consist of all such other sums of money as shall become due or payable by Tenant to Landlord or others for default of which Landlord shall have the same remedies as for a

default in payment of fixed annual rent.

34th: REMEDIES.

The Landlord may pursue the relief or remedy sought in any invalid clause by conforming the said clause with the provisions of the statutes or the regulations of any governmental agency in such case made and provided as if the particular provisions of the applicable statutes or regulations were set forth herein at length.

35th: LATE CHARGES AND DISPOSSESS PROCEEDINGS.

In the event any monthly rental payment is not received by the 10th day of any month, the Tenant shall be responsible to pay, as additional rent hereunder, a sum equal to 5% of that month's rent per month and same shall be paid with the next regular monthly rent payment. Under no circumstances will an action be commenced against the Tenant for non-payment of rent prior to the 15th day of any month.

36th: BROKERS.

Should any commission be due, the Landlord shall pay such commission to any broker that the Landlord has a written commission agreement with. The parties represent one unto the other that no broker or commission agent was involved in this transaction and no commissions are due to any person or firm. They hold each other harmless from any and all damages, costs or expenses if this representation has been violated.

37th: GENDER.

In all references herein to any parties, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties hereto, and their heirs, executors, administrators, personal or legal representatives, successors and assigns.

[SIGNATURE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, or caused these presents to be signed by their proper corporate officers and their proper corporate seal to be hereto affixed, the day and year first above written.

Tenant: The City of Jersey City

Robert J. Kakoleski
Business Administrator

Landlord: 199-201 Summit Avenue, LLC

By: _____
Peter Gargiulo, Manager

City Clerk File No. Ord. 13.146

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 13.146

TITLE: AN ORDINANCE SUPPLEMENTING CHAPTER 332 (VEHICLES AND TRAFFIC) ARTICLE II (TRAFFIC REGULATIONS) SECTION 332-8 (PROHIBITED RIGHT TURNS ON RED SIGNAL) OF THE JERSEY CITY TRAFFIC CODE PROHIBITING THE RIGHT TURN ON RED SIGNAL AT CANAL ST AND GRAND ST; GRAND ST AND MONMOUTH ST; GRAND ST AND DOUGLAS AND ARTHUR SKINNER MEMORIAL DR (FKA JERSEY AV); GRAND ST AND BARROW ST; GRAND ST AND MARIN BLVD AND GRAND ST AND WASHINGTON ST, ALL TIMES, ALL APPROACHES

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

1. Chapter 332 (Vehicles and Traffic) Article II (Traffic Regulations) Section 332-8 (Prohibited right turns on red signal) of the Jersey City Traffic Code is hereby supplemented as follows:

Section: 332-8 Prohibited right turns on red signal.
No person shall make a right turn when facing a steady red signal (stop indication) at any of the locations listed below.

Name of Street	Direction of Travel	Prohibited Right Turn on Red Signal Onto	Hours and Days
<u>Canal St</u>	<u>North</u>	<u>Grand St</u>	<u>All times</u>
Grand St	All	Grove St	8:00 am to 4 pm School Days
	<u>All</u>	<u>Monmouth St</u>	<u>All times</u>
	<u>All</u>	<u>Douglas and Arthur Skinner</u>	<u>All times</u>
	<u>All</u>	<u>Memorial Dr (FKA Jersey Av)</u>	<u>All times</u>
	<u>All</u>	<u>Barrow St</u>	<u>All times</u>
	<u>All</u>	<u>Marin Blvd</u>	<u>All times</u>
	<u>All</u>	<u>Washington St</u>	<u>All times</u>

- All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
 - This ordinance shall be a part of the Jersey City Code as though codified and incorporated in the official copies of the Jersey City Code.
 - 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 to be inserted is underscored.

JDS:PCL
(12.06.13)

APPROVED: _____
Director of Traffic & Transportation

APPROVED: _____
Director,
Architecture, Engineering, Traffic and Transportation

APPROVED AS TO LEGAL FORM

APPROVED: _____
Director, Dept. of Public Works

APPROVED: _____
Business Administrator

Corporation Counsel

Certification Required

Not Required

FACT SHEET

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

1. Full title of ordinance/ resolution/cooperation agreement:

An ordinance supplementing Chapter 332(Vehicles and Traffic) Article II (Traffic Regulations) amending Section 332-8(Prohibited Right Turns on Red Signal) of the Jersey City Code prohibiting the right turn on the red signal at Canal St and Grand St; Grand St and Monmouth St; Grand St and Douglas and Arthur Skinner Memorial Dr (FKA Jersey Av); Grand St and Barrow St; Grand St and Marin Blvd and Grand St and Washington St, All times, All approaches

2. Name and title of person initiating ordinance/resolution, etc.:

Joao D'Souza, Director of Traffic & Transportation, Division of Architecture, Engineering, Traffic and Transportation, Department of Public Works, 201.547.4470 at the request of Director of Public Works Michael Razzoli on behalf of Ward E Councilwoman Candice Osborne

3. Concise description of program, project or plan proposed in the ordinance/resolution:

Prohibit the right turn for vehicles at all approaches, all times on Grand St and Monmouth St; Grand St and Douglas and Arthur Skinner Memorial Dr (FKA Jersey Av); Grand St and Barrow St; Grand St and Marin Blvd and Grand St and Washington St for northbound traffic on Canal St turning east on to Grand St

4. Reasons (need) for the proposed program, project, etc.:

At the recommendation of the Ward Councilperson, to improve pedestrian safety.

5. Anticipated benefits to the community:

Improve pedestrian safety along Grand St from Monmouth St, east to Washington St.

6. Cost of proposed program, project, etc. (Indicate the dollar amount of City, State and Federal funds to be used, as well as match and in-kind contribution:

City Funds

Approximately \$100.00 per sign installation

Eighteen signs for a total of \$1,800.00

7. Date proposed program, or project will commence:

Pending adoption by the Jersey City Municipal Council.

8. Anticipated completion date:

Twenty days after adoption by the Jersey City Municipal Council

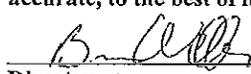
9. Person responsible for coordinating proposed program, project, etc.:

Director Michael Razzoli, Department of Public Works, 201.547.4400

10. Additional comments:

Twenty days after adoption by the Jersey City Municipal Council

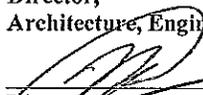
Based on the information provided to me, I certify that all the facts presented herein are accurate, to the best of my knowledge.



Director,
Architecture, Engineering, Traffic and Transportation

12-9-13

Date



Director,
Department of Public Works

Date



STEVEN M. FULOP
MAYOR OF JERSEY CITY

CITY OF JERSEY CITY
DEPARTMENT OF PUBLIC WORKS
PUBLIC WORKS COMPLEX | 575 ROUTE 440 | JERSEY CITY, NJ 07305
P: 201-547-4402 | F: 201-547-4803



MICHAEL RAZZOLI
DIRECTOR

MEMORANDUM

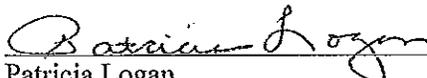
DATE: December 6, 2013
TO: Robert Kakoleski, Acting Business Administrator
FROM: Patricia Logan, Supervising Traffic Investigator
Division of Architecture, Engineering, Traffic and Transportation
SUBJECT: PROPOSED ORDINANCE
PROHIBITED RIGHT TURNS ON RED SIGNAL

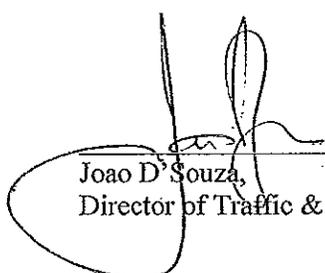
At the request of DPW Director Michael Razzoli, on behalf of Councilwoman Osborne, kindly be advised this Division has proposed legislation (for the Council's consideration) prohibiting the right turn on red signal at the intersection of Canal Street and Grand Street; Grand Street and Monmouth Street; Grand Street and Douglas and Arthur Skinner Memorial Drive (FKA Jersey Av); Grand Street and Barrow Street; Grand Street and Marin Boulevard and at Grand Street and Washington Street.

The proposed traffic regulations were requested by Councilwoman Osborne to increase pedestrian safety at the aforementioned intersections.

It is anticipated that the proposed legislation will be listed on the Agenda for the December 18, 2013 Municipal Council Meeting.

Feel free to contact Patricia Logan at ex. 4492 if you have any questions regarding the legislation.


Patricia Logan,
Supervising Traffic Investigator


Joao D'Souza,
Director of Traffic & Transportation

C: Stanley Huang, P.E., Municipal Engineer
Brian Weller, L.A.A., ASLA, Director, Architecture, Engineering, Traffic and Transportation
Michael Razzoli, Director, DPW
Robert Byrne, City Clerk



Address Grand St & Monmouth St
Grand St & Monmouth St
Old Colony Square, Jersey City,
NJ 07302

1. Grand St & Monmouth St
2. Grand St & Douglas and Arthur Skinner Memorial Dr (FKA Jersey Av)
3. Grand St & Barrow St
4. Grand St & Marln Blvd
5. Grand St & Canal St

- 6 Grand St & Washington St

