

City Clerk File No. Ord. 13.118

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 13.118

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

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

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

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

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

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

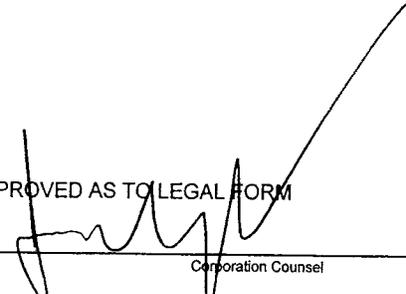
Section 2. The portion of the authorization financed shall be provided for in succeeding annual budgets by the inclusion of at least one fifth of the amount authorized by this ordinance and financed and as provided in N.J.S.A. 40A:4-55.

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

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

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

APPROVED AS TO LEGAL FORM



Corporation Counsel

Certification Required
Not Required

APPROVED:



APPROVED:



Business Administrator

City Clerk File No. Ord. 13.119

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 13.119

TITLE: A Franchise Ordinance granting permission to 110 FIRST STREET URBAN RENEWAL ASSOCIATES, LLC, its successors and assigns, to improve and use that approximately ten (10) foot portion of the public right-of-way between the sixty (60) foot right-of-way adjacent to Second Street and Lot 42, Block 11603, on the official tax assessment map of the City of Jersey City for the installation of underground backflow preventers, house traps 7/5' x 5' vaults for its sanitary and storm sewer systems, which encroach ten (10) feet onto the public right-of-way along Second Street.

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

WHEREAS, 110 FIRST STREET URBAN RENEWAL ASSOCIATES, LLC (the "Petitioners") have filed a Petition with the Municipal Council of the City of Jersey City, requesting a franchise within the Second Street right-of-way as more particular described on the written description and sketch prepared by Langan Engineering attached hereto and made a part hereof as Exhibit "A", said Petition and Survey being on file with the office of the City Clerk; and

WHEREAS, the Petitioners are the owners of Lot 42 in Block 11603 (the "Property"); and

WHEREAS, currently the proposed franchise area is a public sidewalk; and

WHEREAS, the Petitioners received Preliminary and Final Site Plan approval from the Jersey City Planning Board on July 9, 2013 to construct a 35 story high rise development consisting of 451 dwelling units, 15,681 sq. ft. of retail space and 358 parking spaces; and

WHEREAS, the franchise area would allow for the required construction of underground backflow preventers, house traps 7/5' x 5' vaults for its sanitary and storm sewer systems; and

WHEREAS, the area in question is located between the sixty (60) foot right-of-way adjacent to Second Street and Lot 42, Block 11603 on a currently existing ten (10) foot public sidewalk. In order to install underground backflow preventers, house traps 7/5' x 5' vaults for its sanitary and storm sewer systems, the Petitioners request permission to use the ten (10) foot portion of existing ten (10) foot public sidewalk along Second Street and adjacent to Lot 42 Block 11603.

WHEREAS, Petitioners, their successors and assigns, have made application to the Municipal Council of the City of Jersey City by written Petition for the franchise herein referred to:

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

SECTION 1: Permission is hereby granted to Petitioners, their heirs and successors, to install underground backflow preventers, house traps 7/5' x 5' vaults for its sanitary and storm sewer systems in the existing ten (10) foot public sidewalk as more particularly delineated in Exhibit A along Second Street adjacent to Lot 42 Block 11603.

SECTION 2: This Ordinance shall remain in full force and effect for a period of ninety-nine (99) years. In the event that the Municipal Council determines that this Ordinance must be canceled in whole or in part because of a public purpose, the City reserves the right to cancel this Ordinance or any part thereof by giving written notice to the Petitioner one year prior to the date of cancellation.

SECTION 3: Only with prior written consent and approval by the City Council of the City of Jersey City, which consent and approval shall not be unreasonably withheld, shall Petitioners have the right to assign or otherwise transfer their rights under this Franchise Ordinance.

SECTION 4: In accepting the privileges under this ordinance and in the maintenance and the use herein authorized, Petitioners, their successors and/or assigns shall agree to assume full, complete, and undivided responsibility for any and all injury and damages to persons or property by reason of such maintenance and use and to indemnify and hold the City of

Jersey City harmless from any injury or damage to persons or property by reason of such maintenance and use (except such injury or damage which is caused by the negligence or misconduct of the City or its officers, employees or agents) for the term of this Ordinance.

a) Petitioners, their successors and/or assigns, shall maintain in effect, during the term of this franchise, liability insurance naming the City of Jersey, its officers and employees as additional insured, covering the use and occupancy of the franchise portion of Second Street. A Certificate of Insurance, in the amount of \$1,000,000.00 and in a form deemed acceptable by the City's Risk Manager, shall be delivered to the City's Risk Manager before use or occupancy of the premises subject to this Franchise Ordinance commences.

SECTION 5: After construction, there shall remain no damage to the area or interference with the free and safe flow of pedestrians. The Petitioners shall maintain all improvements installed by them for the entire term of the franchise at no cost to the City of Jersey City.

SECTION 6: The costs and expenses incidental to the introduction, passage and publication of this Ordinance shall be paid by the Petitioners.

SECTION 7: The Ordinance shall not become effective unless an acceptance hereof in writing is filed by the Petitioners with the City Clerk.

SECTION 8: In the event that the Petitioners shall not file with the City Clerk, their acceptance, in writing, of the provisions of this Ordinance within thirty (30) days after receiving notice of its passage, this Ordinance shall become void and be of no effect.

SECTION 9: For the Franchise herein granted, the Petitioners shall pay annually to the City of Jersey City the sum of ONE DOLLAR (\$1.00), which payment shall be made in advance to the City Finance Director, at his/her office in City Hall, on the first day of January in each year after this Ordinance becomes effective and remains in force.

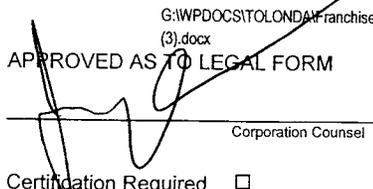
SECTION 10: This Franchise Ordinance shall be subject to the following conditions:

- a) An easement upon the portion of the Property subject to this Franchise Ordinance is hereby reserved for the benefit of the City of Jersey City and all public utility companies for the benefit of the City of Jersey City and all public utility companies for the purpose operating, maintaining, inspecting, protecting, repairing, replacing or reconstructing any existing water, sewer or utility lines together with the right of ingress and egress at all times for such purposes and all other purposes in connection with or in any way relating to the City of Jersey City's, or public utility companies', use or operation of water, sewer or utility lines.
- b) No building or structure of any kind may be construed over the water or sewer utilities within the area subject to this franchise without the consent of the Chief Engineer of the City of Jersey City.
- c) The Petitioners shall install underground backflow preventers, house traps 7/5' x 5' vaults for its sanitary and storm sewer systems in the existing ten (10) foot public sidewalk as more particularly delineated in Exhibit A along Second Street adjacent to Lot 42 Block 11603.
 - A) All Ordinances and parts of Ordinance 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 same time and in the manners 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 the existing provisions.

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

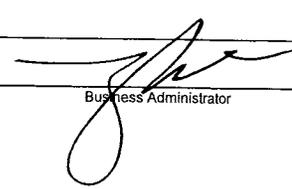
G:\WPDOCS\TOLONDA\Franchise Ordinance Correspondence\110 First Street Urban Renewal Associates, LLC\2013\petition franchise ordinance (3).docx

APPROVED AS TO LEGAL FORM



Corporation Counsel

APPROVED: _____

APPROVED: 

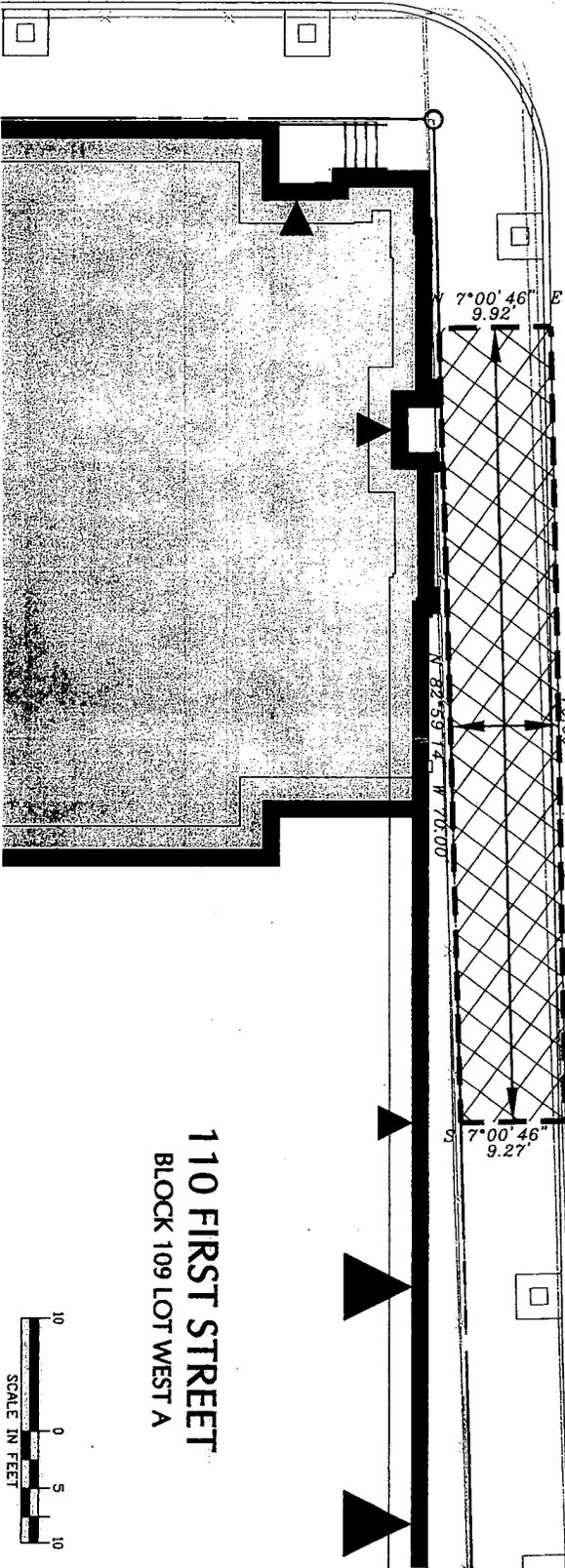
Business Administrator

Certification Required
Not Required

WARREN STREET
60.00' R.O.W.
(TWO WAY)

SECOND STREET
60.00' R.O.W.
(ONE WAY)

(← ONE WAY)



LIMITS OF PROPOSED
FRANCHISE AGREEMENT

110 FIRST STREET
BLOCK 109 LOT WEST A



Michael J. Fowler
MICHAEL J. FOWLER
PROFESSIONAL ENGINEER N.J. LIC. No. 323398
DATE 7/27/2013

LANGAN
Nine Dime Court, 100 New York
Road, Suite 200, Newark, NJ 07102
T: 201.794.6800 F: 201.794.0388 www.langan.com
Langan Engineering, Environmental, Consulting and
Construction, Inc. a subsidiary of Langan
Collective, known as Langan
N.J. CERTIFICATE OF AUTHORIZATION No. ZC02709020

Project
110 FIRST STREET
JERSEY CITY, NEW JERSEY
HUDSON COUNTY
NEW JERSEY

Drawing Title
SECOND STREET
FRANCHISE
AGREEMENT

Project No.
9201401
Date
07/18/2013
Scale
1"=10'
Drawn By
AT
Submission Date

Drawing No.
F-1

City Clerk File No. Res Ord. 13.120

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 13.120

TITLE:

AN ORDINANCE TO PROVIDE FOR THE DESIGNATION OF PUBLIC PROPERTY WITHIN SPECIFIED AREAS OF THE CITY OF JERSEY CITY AS A TEMPORARY "CLEAN ZONE" DURING THE TIME PERIOD BEGINNING AT SIX O'CLOCK (6:00) A.M. ON MONDAY, JANUARY 27, 2014 AND ENDING AT SIX O'CLOCK (6:00) P.M. ON TUESDAY, FEBRUARY 4, 2014, RELATIVE TO THE USE OF THESE AREAS IN CONJUNCTION WITH THE 2014 NATIONAL FOOTBALL LEAGUE'S SUPER BOWL XLVIII RELATED ACTIVITIES AND EVENTS; TO PROVIDE FOR THE TEMPORARY SUSPENSION OF CERTAIN PERMITS AND BUSINESS AND/OR COMMERCIAL ACTIVITY IN THE CLEAN ZONE AREA

COUNCIL
ordinance:

offered and move adoption of the following

WHEREAS, the dates of the 2014 National Football League's Super Bowl XLVIII and related events has been established as Monday, January 27, 2014 through Tuesday, February 4, 2014; and

WHEREAS, this event will attract thousands of visitors to the City of Jersey City and provide the city with national and international exposure from around the world; and

WHEREAS, the 2014 National Football League's Super Bowl XLVIII and related events will have a tremendous positive economic impact on the City of Jersey City and the State of New Jersey; and

WHEREAS, given the thousand of visitors, dignitaries, and media personnel who will be in attendance, it is necessary that certain areas in and around events related to the 2014 National Football League's Super Bowl XLVIII, be regulated and controlled to provide for the public health, safety, and welfare of the above mentioned participants so that the maximum benefit and enjoyment of all that the 2014 National Football League's Super Bowl XLVIII events have to offer may be enjoyed by all; and

WHEREAS, the two teams competing in the 2014 National Football League's Super Bowl XLVIII will be staying in hotels in Jersey City; and

WHEREAS, in conjunction with the Super Bowl XLVIII the National Football League will be conducting related activities with the two Super Bowl team in the City of Jersey City; and

WHEREAS, to that end, it is necessary to establish Clean Zone area for the temporary time periods and within the specified boundaries designated in this ordinance; now therefore

THE COUNCIL OF THE CITY OF JERSEY CITY HEREBY ORDAINS,

SECTION 1. That there is hereby established a Clean Zone as follows:

- a. **BEGINNING** at the intersection of the centerlines of Luis Munoz Marin Boulevard and Second Street in the Downtown section of Jersey City, thence running:

1. north along the centerline of Marin Blvd to 14th Street; thence
2. east along the centerline of 14th Street to the centerline of the elevated Hudson Bergen Light Rail; thence
3. south along the centerline of the Light Rail to the continuation of the centerline of Pavonia Avenue; thence
4. east along the centerline of Pavonia Avenue to the Jersey City Municipal Boundary within the Hudson River; thence
5. south along the Municipal Boundary to the continuation of the centerline of York Street; thence
6. west along the centerline of York Street to Washington Street; thence
7. north along the centerline of Washington Street to Christopher Columbus Drive; thence
8. west along the southern boundary of the Columbus Drive right-of-way and continuing as Columbus Drive curves to the south at Brunswick Street to Center Street; thence
9. reversing direction to the east along the northern boundary of the Columbus Drive right-of-way and continuing as Columbus Drive curves to the north at Brunswick Street to Washington Street; thence
10. north along the western boundary of the Washington Street or as it becomes known as Washington Boulevard to Second Street; thence
11. west along the centerline of Second Street to Luis Munoz Marin Boulevard at the point and place of beginning.

b. A map of the Clean Zone is available on file in the office of the City Clerk.

SECTION 2. The Clean Zone defined in Section 1 shall have a duration beginning at six o'clock (6:00) A.M. on Monday, January 27, 2014, and ending at six o'clock (6:00) P.M. on Tuesday, February 4, 2014.

SECTION 3. Within the Clean Zone the activities described below conducted by any person or entity, except those approved by both the City and National Football League, shall be regulated as follows:

- a. No person shall transact any business upon the public streets or sidewalks.
- b. The sale of any food or beverages shall be prohibited on the public streets, sidewalks or right of ways and outside of an enclosed building.
- c. The sale of merchandise and/or the transaction of business shall be prohibited on the public streets, sidewalks or right of ways and outside of an enclosed building.
- d. No alcoholic beverages shall be provided, served or sold from any temporary outdoor use, unless temporary structure was approved pursuant to (L) below.
- e. All permits relative to the sale of merchandise and/or the transaction of business shall be suspended on the public streets, sidewalks or right of ways and outside of any enclosed building.
- f. All permits relative to the sale of food or beverages shall be suspended on the public streets, sidewalks or right of ways and outside of any enclosed building.

- g. Off-site commercial advertising, as defined in this section, shall be prohibited unless authorized by the City of Jersey City or the National Football League (NFL). Off-site commercial advertising means advertising visible from the outside of a building that identifies a product or service not produced, sold or manufactured on the premises or which otherwise directs attention to a product, service, business or commercial activity offered elsewhere than on the premises where such advertising is located. Any conflicting advertising shall be subject to immediate removal.
- h. Mobile or push-cart vending is prohibited in the Clean Zone during the week of Monday, January 27, 2014 through Sunday, February 2, 2014.
- i. The sale or distribution of unauthorized or illegal, non-licensed merchandise, regardless of whether the person selling or distributing is operating pursuant to a special permit, exception or exemption provided for in this ordinance or elsewhere in the City Code, shall be prohibited.
- j. Inflatables, cold air balloons, banners, pennants, flags, building wraps, A-frame signs, projected image signs, electronic variable message signs, and light emitting diode signs of a commercial nature shall be prohibited except for those sanctioned and authorized by the City or by the National Football League (NFL).
- k. Mobile advertising (including, but not limited to, signs on or attached to a vehicle, portable device or person) shall be prohibited unless authorized by the City or by the National Football League (NFL), including, but not limited to, those placed on existing public utility poles.
- l. The construction, placement, occupation, or use of any temporary structure (including, but not limited to, temporary location of tents, canopies and air-supported, air-inflated, and tensioned membranes) shall be prohibited except those sanctioned and authorized by the City, the National Football League (NFL) or the Director of Public Safety for public safety purposes.
- m. All temporary structures sanctioned and authorized by the City and the National Football League shall be white structures only.
- n. The erection or placement of mobile wireless communication facilities shall be prohibited except those sanctioned by the National Football League (NFL) or the City. A mobile wireless communication facility is defined as a structure, antenna or trailer that is temporary and portable in nature and used to provide or increase wireless cellular communication.
- o. The distribution or provision of free products, service or coupons (otherwise referred to as sampling) and other promotional giveaways on public streets, sidewalks or rights of way or outside an enclosed building shall be prohibited except if such activities are sanctioned and authorized by the National Football League (NFL) or the City.
- p. Notwithstanding the provisions provided for elsewhere in the City Code, the holder of a plenary retail consumption license shall be permitted to the sell for consumption on the licensed premises any alcoholic beverage by the glass or open receptacle on Super Bowl Sunday February 2, 2014 from 12:00 noon to 4:00 A.M. of the following day subject to the directives of the Jersey City Department of Public Safety.

SECTION 4. One or more Public Participation Areas shall be established within or around the Clean Zone. Each Public Participation Area shall allow for the reasonable expression by the public in a manner that shall not be disruptive to the surrounding businesses, activities and events. Public Participation Zones shall be provided for during

such times, and in such reasonable locations or proximity in and/or around the Clean Zone as to allow for meaningful and effective expression by the public.

SECTION 5. The violation of any provision of this ordinance shall be punishable by a fine not exceeding \$2,000.00 or by imprisonment for not more than 90 days or both such fine and imprisonment.

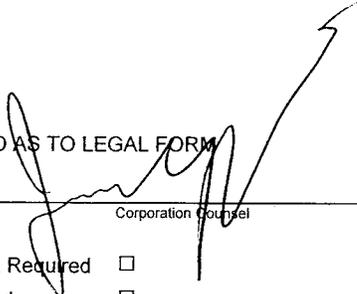
SECTION 6. If any of the provisions of this ordinance are for any reason held to be unconstitutional or invalid by a court or competent jurisdiction, such holding shall not affect the validity of the remaining portions, and those remaining portions shall be and remain in full force and effect.

- 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.

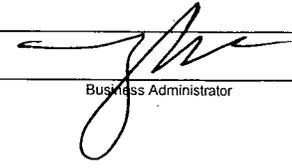
NOTE: All material is new; therefore, underlining has been omitted.

JJH/igp
October 16, 2013

APPROVED AS TO LEGAL FORM _____
 Corporation Counsel



APPROVED: _____
 APPROVED: _____
 Business Administrator



Certification Required
 Not Required

PETITION

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

Your petitioner, 110 First Street Urban Renewal Associates, LLC (the "Petitioner"), being the owner of 110 First Street, Jersey City, New Jersey, their successors and assigns, having offices at 417 Fifth Avenue, 4th Floor, New York, New York 10016:

1. The Petitioner owns the real property in the City of Jersey City as follows:

Block: 11603, Lot: 42
Known as 110 First Street, Jersey City, New Jersey (the "Property").
2. A new 35 story building containing 451 residential dwelling units, 15,681 square feet of retail and 358 onsite parking spaces (the "Project") is currently being developed on the Property.
3. On January 29, 2008, Petitioner received preliminary major site plan approval from the Planning Board of the City of Jersey City for the Project.
4. In connection with the development of the Project, the Petitioner is required to install underground backflow preventers and house-traps 7.5'x 5' vaults for its sanitary and storm sewer systems (the "Improvement"). The Improvements will be located within the Second Street right-of-way and is located as more particularly described in the written description prepared by Langan Engineering and dated July 17th, 2013 attached hereto as Exhibit A (the "Franchise Area"). Petitioner requests permission to use the Franchise Area to construct and maintain the Improvement.

WHEREFORE, Petitioners respectfully request for themselves, their successors and assigns, permission to use the Franchise Area within the Second Street right-of-way as more particularly described on the written description prepared by Langan Engineering attached hereto and made a part hereof as Exhibit A.

110 First Street Urban Renewal Associates, LLC

By:
Title:
Date:

City Clerk File No. Ord. 13.121

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 13.121

TITLE:

**AN ORDINANCE AUTHORIZING THE TRANSFER OF PROPERTIES OWNED
BY THE JERSEY CITY REDEVELOPMENT AGENCY WITHIN THE MORRIS
CANAL REDEVELOPMENT PLAN AREA TO THE CITY OF JERSEY CITY
FOR THE CREATION OF BERRY LANE PARK**

WHEREAS, the Jersey City Redevelopment Agency (JCRA) is the owner of certain parcels of real property located in Blocks 18901 and 19803 known and designated as:

<u>Property Address</u>	<u>Block #</u>	<u>Lot #</u>
990 Garfield Avenue	18901	1
1000 Garfield Avenue	18901	2
75 Woodward Street	19803	3
65 Woodward Street	19803	4
Woodward Street	19803	5
942 Garfield Avenue	19803	8
944 Garfield Avenue	19803	9
946 Garfield Avenue	19803	10
948 Garfield Avenue	19803	11
960-958 Garfield Avenue	19803	12
964 Garfield Avenue	19803	13
966 Garfield Avenue	19803	14
968 Garfield Avenue	19803	15
Inside Garfield Avenue	19803	21

located within the Morris Canal Redevelopment Area, situated in the City of Jersey City, Hudson County, New Jersey (hereinafter "Properties"); and

WHEREAS, the Properties were acquired by the JCRA for the purpose of constructing a facility to be known as Berry Lane Park; and

WHEREAS, the JCRA desires to convey title to the Properties to the City of Jersey City (City) which will maintain Berry Lane Park; and

WHEREAS, the JCRA is authorized to convey the properties to the City pursuant to N.J.S.A. 40A:12A-8 and 22; and

WHEREAS, the City is authorized to acquire properties from the JCRA with or without consideration pursuant to N.J.S.A. 40A:12-39(a) and N.J.S.A. 40A:12-13(b)(1)

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

1. The acquisition of certain lands designated on Jersey City's official Tax Assessment Map as Block 18901, Lots 1 and 2; and Block 19803, Lots 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15 and 21 within the Morris Canal Redevelopment Plan Area from the Jersey City Redevelopment Agency is hereby approved.

2. The Business Administrator is authorized to execute a contract for sale, accept a Deed from the Jersey City Redevelopment Agency and execute any documents deemed necessary or appropriate by Corporation Counsel to effectuate the acquisition of the Properties from the Jersey City Redevelopment Agency, subject to receipt of a clear title report and a remediation plan approved by the New Jersey Department of Environmental Protection.

A. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

B. 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.

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 the 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.

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required

Not Required

ORDINANCE/RESOLUTION FACT SHEET

This summary sheet is to be attached to the front of any ordinance, resolution, cooperation agreement or contract that is submitted for Council consideration. Incomplete or 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 AUTHORIZING THE TRANSFER OF PROPERTIES OWNED BY THE JERSEY CITY REDEVELOPMENT AGENCY WITHIN THE MORRIS CANAL REDEVELOPMENT PLAN AREA TO THE CITY OF JERSEY CITY FOR THE CREATION OF BERRY LANE PARK

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

Benjamin Delisle, Director of Development, Jersey City Redevelopment Agency (201-761-0822)

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

This Ordinance will authorize the Jersey City Redevelopment Agency ("Agency"), its agents or assigns to transfer Agency-owned property located within Blocks 18901 & 19803 of the Morris Canal Redevelopment Plan, as adopted by the Municipal Council of the City of Jersey City in March 1999, to the City of Jersey City to facilitate the development of Berry Lane Park.

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

The Jersey City Redevelopment Agency has been charged with the responsibility of acquiring properties in the subject area to effectuate the rehabilitation, redevelopment and revitalization initiatives of the Morris Canal Redevelopment Plan Area. The Jersey City Redevelopment Agency acquired these properties for the creation of Berry Lane Park.

5. Anticipated Benefits to the Community:

Revitalization of an area determined to be an area in need of redevelopment with the creation and construction of a facility to be known as Berry Lane Park.

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 contributions.):

No cost to the City.

7. Date Proposed Program or Project will Commence:

Upon adoption of this Ordinance.

8. Anticipated Completion Date:

Approximately six (6) months from commencement.

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

Benjamin Delisle, Director of Development, Jersey City Redevelopment Agency

10. Additional Comments:

I certify that all the facts presented herein are accurate.

JERSEY CITY REDEVELOPMENT AGENCY

Christopher Fiore

Christopher Fiore, Asst. Executive Director

10/1/13

Date



INTER - OFFICE
MEMORANDUM

TO: Annemarie Miller, Real Estate Department

FROM: Benjamin Delisle, Director of Development *BD*

DATE: October 1, 2013

SUBJECT: Jersey City Redevelopment Agency to City of Jersey City
Block 18901, Lots 1 and 2;
Block 19803, Lots 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15 and 21
Morris Canal Redevelopment Area

Enclosed please find Ordinance authorizing the transfer of title to the properties referenced above from the Jersey City Redevelopment Agency (Agency) to the City of Jersey City (City.) The conveyance was approved at our September 17, 2013 Board of Commissioners meeting. Properties are further described on the attached Schedule "A".

The above properties were acquired by the Agency for the purpose of constructing a facility to be known as Berry Lane Park, which the City will maintain upon completion of the transfer.

Please have the ordinance introduced at the next available Council meeting.

Please contact me at 201-761-0822 if you have any questions regarding the above. Thank you.

BD/mm
Enclosures

c: Jeremy Farrell
Diana Jeffrey
John Thieroff
Vivian Brady-Phillips
Robert P. Antonicello
Christopher Fiore

SCHEDULE "A"
Properties in Blocks 18901 & 19803

<u>Property Address</u>	<u>Block #</u>	<u>Lot #</u>
990 Garfield Avenue	18901	1
1000 Garfield Avenue	18901	2
75 Woodward Street	19803	3
65 Woodward Street	19803	4
Woodward Street	19803	5
942 Garfield Avenue	19803	8
944 Garfield Avenue	19803	9
946 Garfield Avenue	19803	10
948 Garfield Avenue	19803	11
960-958 Garfield Avenue	19803	12
964 Garfield Avenue	19803	13
966 Garfield Avenue	19803	14
968 Garfield Avenue	19803	15
Inside Garfield Avenue	19803	21

City Clerk File No. Ord. 13.122

Agenda No. 3.E 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 13.122

TITLE: [THIS ORDINANCE SECURES BONDS OR OTHER OBLIGATIONS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE "REDEVELOPMENT AREA BOND FINANCING LAW" AND THE LIEN HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-MUNICIPAL LIENS HEREINAFTER RECORDED.]

ORDINANCE APPROVING THE EXECUTION OF A FINANCIAL AGREEMENT WITH JOURNAL SQUARE I URBAN RENEWAL LLC AND OTHER APPLICABLE DOCUMENTS RELATED TO THE AUTHORIZATION AND ISSUANCE BY THE JERSEY CITY REDEVELOPMENT AGENCY OF NOT TO EXCEED \$10,000,000 REDEVELOPMENT AREA BONDS (NON-RECOURSE TO THE FULL FAITH AND CREDIT OF THE CITY) AND DETERMINING VARIOUS OTHER MATTERS IN CONNECTION THEREWITH

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

WHEREAS, on September 11, 2013, the Municipal Council of the City of Jersey City, in the County of Hudson, New Jersey (the "City"), adopted Ordinance No. 13-092, which designated various properties, including, but not limited to, Block 9501, Lots 4 (621 Pavonia Avenue), 5 (619 Pavonia Avenue), 6 (617 Pavonia Avenue), 7 (615 Pavonia Avenue), 8 (605 Pavonia Avenue), 10 (601 Pavonia Avenue), 11 (597 Pavonia Avenue), 12 (595 Pavonia Avenue), 13 (539 Summit Avenue), 14 (537 Summit Avenue), 15 (535 Summit Avenue), and 16 (136 Magnolia Avenue) as shown on the official current tax map of the City, as an area in need of redevelopment (the "Redevelopment Area" and also referred to as the "Project Premises") for purposes of the Local Redevelopment and Housing Law, constituting Chapter 79 of the Pamphlet Laws of 1992 of the State of New Jersey (the "State"), and the acts amendatory thereof and supplemental thereto (the "Redevelopment Law", as codified by N.J.S.A. 40A:12A-1 et seq.); and

WHEREAS, on July 14, 2010, the Municipal Council of the City adopted Ordinance No. 10-103, approving a redevelopment plan for the Redevelopment Area, entitled "Journal Square 2060 Redevelopment Plan" as the same may be amended and supplemented from time to time (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Area is governed by the Redevelopment Plan; and

WHEREAS, Journal Square Associates LLC ("JSA" or the "Redeveloper") is the fee title owner of the Project Premises; and

WHEREAS, the Redeveloper has made application to the Jersey City Redevelopment Agency (the "Agency") to be designated as the redeveloper to redevelop the Project Premises; and

WHEREAS, the Agency has reviewed the proposal of the Redeveloper and related submissions and has determined that it is in the Agency's best interests to select the Redeveloper as the designated redeveloper for the Project Premises for purposes of negotiating an agreement for the redevelopment of the designated area; and

WHEREAS, the Redeveloper will record a Master Deed (as the same may be amended and supplemented, the "Master Deed") to submit all of the Project Premises to the condominium form of ownership and incorporate the same as part of a condominium regime under the New Jersey Condominium Act, N.J.S.A. 46:8B-1 et seq., to be known as "Journal Squared Condominium"; and

WHEREAS, Journal Square I Urban Renewal LLC ("JS I"), wholly-owned by JSA, is or will be the owner of master condominium unit 1 (which condominium unit may be further subdivided as provided in accordance with the Master Deed) located on the Project Premises, upon which JS I plans to construct phase I of the redevelopment plan, which is expected to consist of a 54-story building having approximately 540 market-rate residential rental units, approximately 4,000 square feet of leasing space and potential future commercial space, a parking garage containing approximately 153 parking spaces, and an interim surface parking lot having approximately 74 parking spaces, together with a pedestrian mall and public improvements and infrastructure related thereto (collectively, the "Phase I Project"); and

WHEREAS, Journal Square II Urban Renewal LLC ("JS II"), wholly-owned by JSA, is or will be the owner of master condominium unit 2 (which condominium unit may be further subdivided as provided in accordance with the Master Deed) located on the Project Premises, upon which JS II plans to construct phase II of the redevelopment plan, which is expected to consist of a 70-story building having approximately 700 market-rate residential rental units, approximately 18,000 square feet of leasing space and potential future commercial space, and a parking garage containing approximately 522 parking spaces (collectively, the "Phase II Project"); and

WHEREAS, Journal Square III Urban Renewal LLC ("JS III"), wholly-owned by JSA, is or will be the owner of master condominium unit 3 (which condominium unit may be further subdivided as provided in accordance with the Master Deed) located on the Project Premises, upon which the Entity plans to construct phase III of the redevelopment plan, which is expected to consist of a 60-story building having approximately 600 market-rate residential rental units, approximately 14,000 square feet of leasing space and potential future commercial space, and a parking garage containing approximately 245 parking spaces (collectively, the "Phase III Project" and, together with the Phase I Project and Phase II Project, the "Project"); and

WHEREAS, the Redevelopment Area requires certain on-site and off-site public improvements and infrastructure, including a pedestrian mall, certain of which will be undertaken by the Redeveloper in connection with the Phase I Project, but which benefit the entire Project, including, if and when completed, the Phase II Project and Phase III Project; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-66, a municipality that has designated a redevelopment area may provide for tax abatement within that redevelopment area and for payments in lieu of taxes in accordance with the provisions of the Long Term Tax Exemption Law of 1992, constituting Chapter 431 of the Pamphlet Laws of 1991 of the State of New Jersey, and the Acts amendatory thereof and supplemental thereto (the "Tax Exemption Law", as codified in N.J.S.A. 40A:12A-1 et seq.); provided, however, that the provisions of section 12 of the Tax Exemption Law (N.J.S.A. 40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the term of the exemption period, and of section 13 of the Tax Exemption Law (N.J.S.A. 40A:20-13) permitting the relinquishment of status under that law, shall not apply to redevelopment projects financed with bonds; and

WHEREAS, pursuant to the Tax Exemption Law, the City is authorized to provide for tax exemption within a redevelopment area and for payments in lieu of taxes in accordance with the applicable provisions thereof; and

WHEREAS, JS I has submitted an application to the City for the approval of a project, as such term is used in the Tax Exemption Law, all in accordance with N.J.S.A. 40A:20-8 (the "Exemption Application", a copy of which is attached hereto as Exhibit A); and

WHEREAS, included in the Exemption Application is a request for a tax exemption and payment in lieu of taxes pursuant to the Tax Exemption Law and the Redevelopment Bond Law; and

WHEREAS, the Exemption Application contains documentation evidencing financial responsibility and capability with respect to the proposed development; estimated total development costs; estimated time schedule for start and completion of the proposed development; and conceptual plans; and

WHEREAS, the City evaluated the Exemption Application according to criteria which included financial capabilities, experience, expertise, and project concept descriptions; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the City will enter into a Financial Agreement with JS I, governing payments made to the City in lieu of real estate taxes on the Phase I Project pursuant to the Tax Exemption Law (the "Financial Agreement"); and

WHEREAS, to finance certain aspects of the Project, the Jersey City Redevelopment Agency (the "Agency") will issue bonds in an aggregate principal amount of up to \$10,000,000 (the "Redevelopment Area Bonds") pursuant to the Redevelopment Bond Law, debt service for the repayment of which Redevelopment Area Bonds will come from the Pledged Annual Service Charge (as that term is defined in the Financial Agreement attached hereto); and

WHEREAS, the City and JS I have each agreed that the Base Annual Service Charge (as that term is defined in the Financial Agreement attached hereto), which is not pledged to the payment of debt service on the Redevelopment Area Bonds, paid by JS I to the City shall be for the City's use in its sole discretion, following payment of the "County Service Charge" (as such term is defined in the Agreements attached hereto) to the County of Hudson, as required by N.J.S.A. 40A:20-12; and

WHEREAS, the City made the following findings:

In accordance with the Tax Exemption Law, specifically N.J.S.A. 40A:20-11, the City hereby finds and determines that the Financial Agreement is to the direct benefit of the health, welfare and financial well-being of the City and its citizens because the Agreement allows for the development of a blighted site into a productive, useful and job-creating property, and further:

- (a) The costs associated to the City with the tax exemption granted herein are minor compared to the estimated Total Project Cost of the Phase I Project of \$203,679,187 and the benefit created by (i) the construction of the Improvements, (ii) the creation of approximately 710 jobs during the construction period and (iii) the creation of approximately 25 permanent jobs through the permanent operation of the Improvements.
- (b) Without the tax exemption granted herein it is highly unlikely that the Phase I Project would otherwise be undertaken, as a source of funding all or a portion of the costs thereof, other than from the proceeds of the Redevelopment Area Bonds, would not otherwise be available; and

WHEREAS, in order to set forth the terms and conditions under which JS I and the City (the "Parties") shall carry out their respective obligations with respect to (a) payment of the Annual Service Charge (as that term is defined in the Financial Agreement attached hereto) by JS I in lieu of real property taxes, and (b) issuance of the Redevelopment Area Bonds by the Agency and provision for repayment thereof by JS I (subject to adjustment as provided in the Financial Agreement), the Parties have determined to execute the Financial Agreement; and

WHEREAS, JS I is qualified to do business under the provisions of the Tax Exemption Law, and has submitted to the Mayor the Exemption Application, which is on file with the Office of the City Clerk, requesting a tax exemption for the Phase I Project; and

WHEREAS, there was also submitted to the Mayor by JS I the Financial Agreement; and

WHEREAS, the Mayor has submitted the Exemption Application and Financial Agreement to the Municipal Council with his written recommendation of approval (the "Mayor's Recommendation"), a copy of which is attached hereto as Exhibit B; and

WHEREAS, the Financial Agreement contemplates that the Annual Service Charge will be paid in two categories: the Base Annual Service Charge, to be retained (following payment of the County Service Charge) by the City for Municipal Services as set forth in the Tax Exemption Law; and the Pledged Annual Service Charge, said payments (subject to adjustment as provided in the Financial Agreement) to be dedicated to debt service on the Redevelopment Area Bonds issued to support certain costs of the Project, pursuant to Redevelopment Bond Law; and

WHEREAS, pursuant to the Redevelopment Bond Law, the City, in the exercise of its power under the Redevelopment Bond Law, may enter into contracts as necessary, for the purpose of securing the Redevelopment Area Bonds to finance the Project; and

WHEREAS, the Redevelopment Bond Law requires the approval of the New Jersey Local Finance Board prior to the issuance of financial instruments such as the Redevelopment Area Bonds where such financial instruments are to be secured by payments in lieu of taxes such as the Pledged Annual Service Charges (subject to adjustment as provided in the Financial Agreement); and

WHEREAS, the City believes that (a) it is in the public interest for JS I to undertake the Phase I Project; (b) the Phase I Project is for the health, welfare, convenience or betterment of the inhabitants of the City; (c) the amounts to be expended by the City for said Phase I Project are not unreasonable or exorbitant; and (d) the Phase I Project is an efficient and feasible means of providing services for the needs of the inhabitants of the City and will not create an undue financial burden to be placed upon the City; and

WHEREAS, the City further wishes to approve the execution and delivery of a Pledge and Assignment Agreement with the Agency and/or its bond trustee (the "Pledge Agreement"), which Pledge Agreement will provide for, inter alia, the pledge and assignment of the Pledged Annual Service Charge to the Agency or its bond trustee as security for the payment of debt service on the Redevelopment Area Bonds; and

WHEREAS, the terms of any trust indenture to be entered into by the Agency in connection with the issuance of the Redevelopment Area Bonds will provide terms and provisions relating to the disbursement of proceeds of the Redevelopment Area Bonds.

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

1. JSA is hereby designated to act as redeveloper for the Phase I Project, in accordance with the Redevelopment Plan and the plans and specifications contained in the Application, subject to the conditions and as more fully set forth in the form of Financial Agreement attached hereto. To the extent of any inconsistency with the definition of the "Phase I Project" as contained in the Redevelopment Agreement, the definition of the Phase I Project as contained herein and in the Financial Agreement shall control.
2. The Exemption Application, a copy of which is attached hereto as Exhibit A, is hereby approved in accordance with the Mayor's Recommendation, a copy of which is attached hereto as Exhibit B.
3. The Municipal Council hereby finds and determines that the Financial Agreement is to the direct benefit of the health, welfare and financial well-being of the City and its citizens because it allows for the development of a blighted site into a productive, useful and job-creating property, and further (a) the costs associated to the City with the tax exemption granted herein are minor compared to the estimated Total Project Cost of the Phase I Project of \$203,679,187 and the benefit created by (i) the construction of the Improvements, (ii) the creation of approximately 710 jobs during the construction period and (iii) the creation of approximately 25 permanent jobs through the permanent operation of the Improvements, and

- (b) without the tax exemption granted herein it is highly unlikely that the Project would otherwise be undertaken, as a source of funding all or a portion of the costs thereof, other than from the proceeds of the Redevelopment Area Bonds, would not otherwise be available.
4. An exemption from taxation is hereby granted to JS I, with respect to the Phase I Project for the term set forth in the Financial Agreement, but in no event shall the tax exemption commence until the effective date of the Financial Agreement, nor extend beyond the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) thirty (30) years from the Substantial Completion of the Phase I Project (as defined in the Financial Agreement) and only so long as the Phase I Project is owned by an entity formed and operating under the Tax Exemption Law. To the extent of any inconsistency with any prior City ordinance and/or Municipal Code provision governing the granting of long-term tax exemptions, including, inter alia, procedures for application, review and approval, required terms of the financial agreement, required conditions and covenants, limits on duration, means of enforcement, and all other matters whatsoever, such prior City ordinances and/or Municipal Code provisions are hereby waived (or, alternatively, shall be deemed to be amended and/or superseded by this ordinance) to the extent of such inconsistency, but only with respect to this Ordinance.
 5. The Financial Agreement, in substantially the form attached hereto as Exhibit C, is approved. The Mayor and the Deputy Mayor of the City (each, an "Authorized Officer") are each hereby authorized to execute, on the City's behalf, the Financial Agreement in substantially such form, with such changes as the Authorized Officers shall determine, in consultation with the Corporation Counsel, such determination to be conclusively evidenced by their execution of the Financial Agreement. The City Clerk is hereby authorized and directed to attest to the execution of the Financial Agreement by the Authorized Officers of the City as determined hereunder and to affix the corporate seal of the City to the Financial Agreement.
 6. Pursuant to the provisions of the Redevelopment Bond Law, specifically N.J.S.A. 40A:12A-67(c) and, if applicable, N.J.S.A. 40A:12A-69, the City is hereby authorized to assign, for the benefit of the Agency and/or its bond trustee and as security for the Redevelopment Area Bonds, all of the City's right, title and interest in and to the Pledged Annual Service Charges. The Pledge Agreement, in substantially the form attached hereto as Exhibit D, is approved. The Authorized Officers, or either of them, are each hereby authorized to execute and deliver, on behalf of the City, the Pledge Agreement in substantially such form, with such changes as the Authorized Officers shall determine, in consultation with the Corporation Counsel, such determination to be conclusively evidenced by their execution of the Pledge Agreement. The Authorized Officers, or either of them, are each hereby further authorized to execute and deliver, on behalf of the City, such additional instruments as they may deem, in consultation with the Corporation Counsel, to be necessary or appropriate for the purpose of effectuating such assignment. The City Clerk is hereby authorized and directed to attest to the execution of the Pledge Agreement and any such additional instruments by the Authorized Officer(s) of the City as determined hereunder and to affix the corporate seal of the City thereto.
 7. Executed copies of the Financial Agreement and the Pledge Agreement shall be certified by the City Clerk and filed with the Office of the City Clerk. The Office of the City Clerk shall also forthwith file certified copies of this ordinance and the Financial Agreement with the Director of the Division of Local Government Services pursuant to N.J.S.A. 40A:20-12.
 8. Upon the execution of the Financial Agreement as contemplated herein, the Authorized Officers and the City Clerk are each hereby severally authorized and directed to file and record this Ordinance and the Financial Agreement with the Hudson County Register such that the Financial Agreement and this Ordinance shall be reflected upon the land records of the County of Hudson as a lien upon and a covenant running with each and every parcel of land constituting the Parcel. Pursuant to and in accordance with the provisions of the Redevelopment Bond Law, specifically N.J.S.A. 40A:12A-68(c), and notwithstanding any other law to the contrary, upon recordation of both this ordinance and the Financial Agreement, the lien thereof shall be perfected for all purposes in accordance with law and the lien shall thereafter be superior to all non-municipal liens thereafter recorded or otherwise

arising, without any additional notice, recording, filing, continuation filing or action, until payment of all of the Redevelopment Area Bonds.

9. The Authorized Officers of the City are hereby further severally authorized and directed to (i) execute and deliver, and the City Clerk is hereby further authorized and directed to attest to such execution and to affix the corporate seal of the City to, any document, instrument or certificate deemed necessary, desirable or convenient by the Authorized Officers or the City Clerk, as applicable, in their respective sole discretion, after consulting with the Corporation Counsel, to be executed in connection with the execution and delivery of the Financial Agreement and the Pledge Agreement and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution and delivery thereof.
10. The Phase I Project when completed shall conform with all Federal and State law and ordinances and regulations of the City relating to its construction and use.
11. JS I shall in the operation of the Phase I Project comply with all laws so that no person shall, because of race, religious principles, color, national origin or ancestry, be subject to any discrimination.
12. JS I shall, from the time the Annual Service Charge becomes effective, pay the Annual Service Charge as set forth in the Financial Agreement.
13. All City officers and professionals are hereby authorized to take all necessary and appropriate steps to assist and join with JS I (i) in connection with the required application to the New Jersey Local Finance Board for approval of the issuance of the Redevelopment Area Bonds (in an aggregate principal amount up to \$10,000,000.00 for the Project) for the funding of a part of the cost of the Project and (ii) in connection with the required application to the Agency for approval of its issuance of said Redevelopment Area Bonds.
14. JS I shall pay all outstanding taxes and all outstanding water and sewer charges within thirty (30) days of the adoption of this Ordinance.
15. This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.
16. Term: the earlier of 35 years from the adoption of the within Ordinance or 30 years from the date the project is Substantially Complete;
17. Annual Service Charge: each year the greater of:
 - (a) the Minimum Annual Service Charge equal to the amount of total taxes levied against all real property in the area covered by the Project in the last full tax year in which the Project was subject to taxation; or
 - (b) the Base Annual Service Charge, which is subject to staged increases, as set forth in the Financial Agreement, which sum is estimated to be approximately \$648,000 for the first year.
18. Administrative Fee: 2% of the prior year's Annual Service Charge;
19. County Payment: 5% of the Annual Service Charge to the City for remittance by the City to Hudson County;
20. Project: A new mixed use market rate residential rental project, Master Condominium Unit 1, which will consist of a 54-story building having approximately 540 market-rate residential rental units, approximately 4,000 square feet of leasing space and potential future commercial space, a parking garage containing approximately 153 parking spaces, as well as an interim surface parking lot having approximately 74 parking spaces;

21. Affordable Housing Trust Fund: \$1,500 per unit or \$810,000 and \$1.50 per square foot x 4,000 square feet or \$6,000, for a total of \$816,000;

22. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses;

23. 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.

A. 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.

B. 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.

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

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

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

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

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

DJ/he
10/17/13

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required

Not Required

Rev. 10-17-13
Long Term Tax Exemption
N.J.S.A. 40A:20-1, et seq.
(New Market Rate Res Rental FA)

Re: 595-621 Pavonia Avenue; 535-539 Summit
Avenue; 136 Magnolia Avenue
Approximately 2.23 Acres
Block 9501, Lots 4-8 and 10-16, Master Condo
Units 1, and interim surface parking area
Journal Square 2060 Redevelopment Plan

PREAMBLE

THIS FINANCIAL AGREEMENT, [Agreement] is made the _____ day of __, 2013, by and between **JOURNAL SQUARE I URBAN RENEWAL, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at c/o KRE Group, 520 US Highway 22, P.O. Box 6872, Bridgewater, NJ 08807 [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, or will be the owner, of master condominium Unit 1, to be located on a portion of certain property designated as Block 9501, Lots 4-8 and 10-16, more commonly known by the street addresses of 595-621 Pavonia Avenue, 535-539 Summit Avenue, and 136 Magnolia Avenue, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement [Property]; and

WHEREAS, Property is located within the boundaries of the Journal Square 2060 Redevelopment Plan Area; and

WHEREAS, Journal Square Associates, LLC [JSA] is the current owner of the Property and has recorded, or will record, a Master Deed [Master Deed] to submit all of the Property to the condominium form of ownership and incorporate the same as part of a condominium regime under the New Jersey Condominium Act, N.J.S.A. 46:8B-1 et seq., to be known as "Journal Square

Condominium”; and

WHEREAS, the Entity has a contract to purchase the Property from Journal Square Associates, LLC [JSA], and will close on or before _____, a date preceding the execution of this Financial Agreement; and

WHEREAS, the Project will consist of nine (9) master condominium units to be developed in three (3) phases; and

WHEREAS, the Entity plans to construct Phase I of the Project, which will consist of a 54-story building having approximately 540 market-rate residential rental units, approximately 4,000 square feet of leasing space and potential future commercial space, a parking garage containing approximately 153 parking spaces, as well as an interim surface parking lot having approximately 74 parking spaces, together with a pedestrian mall and public improvements and infrastructure related thereto [collectively, the Phase I Project]; and

WHEREAS, the interim surface parking lot will be designated in the Master Deed as an interim reserved common element for the exclusive use of the Entity until the construction of Phase II, at which time the parking lot will be replaced with the Phase II building and the 74 parking spaces will be included in Phase II of the project; and

WHEREAS, upon substantial completion, the Project will be leased by the Entity to Journal Square Associates Operating Company for a term of 20 years; and

WHEREAS, on December 5, 2012, the Project received a site plan approval from the Planning Board; and

WHEREAS, on September 26, 2013, the Entity filed an Application with the City for a long term tax exemption for the Phase I Project; and

WHEREAS, by the adoption of Ordinance _____ on _____, 2013, 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 \$406,621, whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately \$648,000;

2. the Entity has paid the City the sum of \$816,000, as an affordable housing contribution pursuant to Ordinance 03-112, and the Phase I Project will promote the appropriate development of affordable housing in the area;
3. it is expected that the Project will create approximately 710 new construction jobs and 25 new permanent full time jobs;
4. the Phase I Project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants;
5. the Phase I Project will further the redevelopment objectives of the Journal Square 2060 Redevelopment Plan, which include the promotion of the principals of smart growth and transit village development;
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 Phase I Project and influencing the locational decisions of probable occupants:

1. the relative stability and predictability of the annual service charges will make the Phase I Project more attractive to investors and lenders needed to finance the Phase I 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 Phase I Project, which will attract occupants to the Phase I Project, insure the likelihood of stabilized rents to tenants and the success of the Phase I Project; and
3. have a positive impact on the surrounding area.

WHEREAS, on _____, 2013, the Entity entered into that certain Redevelopment Agreement [Redevelopment Agreement] with Jersey City Redevelopment Agency [JCRA] in accordance with the Local Redevelopment and Housing Law, as amended and supplemented, N.J.S.A. 40A:12A-1 et seq. [Redevelopment Law]; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-66, a municipality that has designated a redevelopment area may provide for tax abatement within that redevelopment area and for payment in lieu of taxes in accordance with the provisions of the Long Term Tax Exemption Law; provided, however, that the provisions of section 12 of the Long Term Tax Exemption Law (NJ.S.A. 40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in

annual service charges over the term of the exemption period, and of section 13 of the Long Term Tax Exemption Law (N.J.S.A. 40A:20-13) permitting the relinquishment of status under that law, shall not apply to redevelopment projects financed with bonds; and

WHEREAS, pursuant to the Redevelopment Law and Redevelopment Area Bond Financing Law, as amended and supplemented, N.J.S.A. 40A:12A-64 et seq. [RAB Law], the Project is a redevelopment project in a redevelopment area, within the meaning of such law, and JCRA has agreed in the Redevelopment Agreement to issue bonds to finance the Project [Redevelopment Bonds].

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 _____, 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. It is expressly understood and agreed that the Entity expressly relies upon this tax exemption, and the JCRA's issuance of Redevelopment Bonds, in undertaking the Phase I Project.

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. Base Annual Service Charge- That portion of the Annual Service Charge to be paid by the Entity to the City pursuant to Section 4.1(i) hereof. The Base Annual Service Charge shall not be pledged to pay Redevelopment Bonds.

vii. 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.

viii. County Annual Service Charge- That portion of the Annual Service Charge to be paid by the City to the County pursuant to Section 4.1(ii) hereof.

ix. 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.

x. 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.

xi. Entity - The term Entity within this Agreement shall mean Journal Square I 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.

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

xiii. 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.

xiv. 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, except that any land taxes paid on the interim surface parking area shall not be applied as a credit to the Annual Service Charge.

xv. 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.

xvi. 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.

xvii. Lease Up Period - Shall begin on the first day of the month following the issuance of the first Certificate of Occupancy (whether permanent or temporary) for the Phase I Project (Lease Up Date). During the Lease Up Period, the Entity shall pay the sum equal to the estimated Annual Service Charge divided by the number of units in the Phase I Project divided by 12 for each month at the rate of 25 units per month for the first month and an additional 25 units each month thereafter through the 20th month after Lease Up Date, whether or not the units are actually occupied or generate revenue. The Lease Up Period for the Project expires 20 calendar months after the Lease Up Date.

xviii. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the greater of: (a) the amount of the total taxes levied against the Property, as allocated to the Phase I Project, in the last full tax year in which the area was subject to taxation. The parties agree that the amount of the total taxes levied against the Property in the last full tax year is \$406,620.76, of which \$119,334.35 shall be allocated to condominium unit 1 (based upon 540 units in the Phase I Project divided by 1,840 total expected units, which amount shall be the Minimum Annual Service Charge for purposes hereof), [\$154,692.68 shall be allocated to condominium unit 2 (based upon 700 expected units in the Phase II Project divided by 1,840 total expected units), and \$132,593.73 shall be allocated to condominium unit 3 (based upon 600 expected units in the Phase III Project divided by 1,840 total expected units)].

xix. 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.

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

xxi. Pledged Annual Service Charge - That portion of the Annual Service Charge to be paid by the Entity pursuant to Section 4.1 (iii) hereof. The Pledged Annual Service Charge shall be pledged to pay Redevelopment Bonds.

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

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

xxiv. 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 from Total Project Cost the actual costs incurred by the Entity and certified by an independent and qualified architect or engineer, which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or Federal law and any extraordinary costs incurred including the cost of demolishing structures, relocation or removal of public utilities, cost of relocating displaced residents or buildings and the clearing of title, if applicable.

xxv. Trust Indenture- That certain Indenture of Trust, Bond Agreement, or other similar

form of agreement, as it may be amended and supplemented, to be entered into by and between the JCRA and the bond trustee, or other person acting in a similar capacity, with respect to the Redevelopment Bonds.

ARTICLE II - APPROVAL

Section 2.1 Approval of Tax Exemption

A. Improvements. The City hereby grants its approval for a tax exemption for master condominium unit 1 (and if and when created, all condominium units subdivided therefrom), constituting 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 the Property.

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 the Phase I Project; 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 Phase 1 Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5.

Section 2.5 Ownership, Management and Control

The Entity represents that it is the owner of Master Condominium Unit 1 and, if and when created, the Entity will be the owner of condominium units subdivided therefrom, and has exclusive right to use the area for the interim surface parking lot, all comprising the Phase I Project is to be constructed. Upon construction, the Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and any Redevelopment Agreement.

Section 2.6 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 lease terms for 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 35 years from the date of the adoption of Ordinance _____ on _____, 2013, which approved the tax exemption or 30 years from the original date of Substantial Completion of the Phase I Project. The tax exemption shall only be effective during the period of usefulness of the Phase I Project and shall continue in force only while the Phase I Project is owned by an entity or association formed and operating under the Law.

ARTICLE IV - ANNUAL SERVICE CHARGE

Section 4.1 Annual Service Charge

In consideration of the tax exemption, the Entity shall make the following annual payments to the City (other than the County Service Charge, which shall be paid by the City to the County) for the services provided to the Phase I Project:

- i. Base Annual Service Charge: The Entity shall pay to the City the Base Annual Service Charge in the amounts set forth on Schedule 1 attached hereto, as adjusted pursuant to the terms hereof. Year 1 of Schedule 1 shall be upon Substantial Completion of the Phase I Project.
- 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. Pledged Annual Service Charge: For so long as Redevelopment Bonds are outstanding and secured by the Pledged Annual Service charge, the Entity shall pay to the City

(which payment shall be assigned by the City to the Trustee in accordance with the Trust Indenture to pay Redevelopment Bonds) the Pledged Annual Service Charge in the amounts set forth in Schedule 1 attached hereto. The Pledged Annual Service Charge for the Phase I Project shall be adjusted upon completion of each of the Phase II Project and Phase III Project to allocate a portion of such service charges to such projects. Such allocation to each phase shall be determined annually on a pro rata basis by dividing the number of completed residential units in such phase by the number of completed residential units on the Property. The Pledged Annual Service Charge shall be adjusted, at the direction of the Entity, to reflect any redemption, refunding, prepayment or other change in the debt service requirements with respect to the Redevelopment Bonds. The Pledged Annual Service Charge shall terminate at such time as Redevelopment Bonds are no longer outstanding or no longer secured by the Pledged Annual Service Charge.

iv. The Minimum Annual Service Charge set forth in Section 1.2(xviii) shall be due beginning on the effective date of this Agreement. Beginning on the first day of the month after Substantial Completion, subject only to the Lease Up Period, the Minimum Annual Service Charge set forth in Section 1.2(xviii) shall be due in any year where it exceeds the Annual Service Charge. 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.

v. Up-Front Payment of Annual Service Charge. Within five (5) business days following the date of Substantial Completion, the Entity shall pay \$1,797,000.00 (One Million Seven Hundred Ninety Seven Thousand Dollars) [Up-Front Payment Charge] to the City. The amount, if any, by which Land Taxes exceed the Annual Service Charge in any year shall be credited against the Prepaid Service Charges until such time as the Up-Front Service Charges are exhausted by such credits.

vi. Credit for Impositions on the Phase II Project and Phase III Project. Until Substantial Completion (as such term is defined in the Phase II Financial Agreement and Phase III Financial Agreement, respectively) of each of the Phase II Project and the Phase III Project, the Base Annual Service Charge payable hereunder shall be reduced by the amount of all land taxes, improvement taxes, service charges and other impositions on the property comprising such projects. Such credit

shall be applied against the Base Annual Service Charge in the year in which such impositions are payable with respect to such projects.

Section 4.2 No Staged Adjustments

Pursuant to the RAB Law (N.J.S.A. 40A:12A-66), service charges payable hereunder shall not be adjusted in stages over the term of the tax exemption period in accordance with N.J.S.A. 40A:20-12.

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, in order to be entitled to a Land Tax credit against the Base 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 Base Annual Service Charge. Land Tax Payments shall not be credited against the Pledged 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 Base Annual Service Charge until the Land Taxes are paid in full. No credit will be applied against the Base Annual Service Charge for a partial payment of Land Taxes until they are paid in full. 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 ninety (90) 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. No administrative Fee shall be payable with respect to the Prepaid Service Charge.

Section 4.6 Affordable Housing Contribution and Remedies

A. **Contribution.** The Entity will pay the City the sum of \$816,000 or \$1,500 per residential unit for 540 units (\$810,000), plus \$1.50 per square foot of commercial space (\$6,000) as a contribution for affordable housing. The sum shall be due and payable as follows: the entire contribution shall be paid on or before the effective date of the ordinance approving the tax exemption.

Section 4.7 Material Conditions

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

ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT

Section 5.1 Project Employment and Contracting Agreement

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

Section 5.2 Project Labor Agreement

The Entity shall execute a Project Labor Agreement as required by Ordinance 07-123 as it exists or as it may be amended from time to time.

ARTICLE VI - CERTIFICATE OF OCCUPANCY

Section 6.1 Certificate of Occupancy

It is understood and agreed that it shall be the obligation of the Entity to obtain all Certificates of Occupancy in a timely manner so as to complete construction substantially in accordance with the proposed construction schedule attached hereto as Exhibit 5.

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 (**DO NOT CONFUSE WITH 'MITIGATE'**) against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by the Entity.

ARTICLE VII - ANNUAL REPORTS

Section 7.1 Accounting System

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

Section 7.2 Periodic Reports

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the Entity's accounting basis that the Agreement shall continue in effect, the Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Phase I 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, plus excess net profit, if any, in accordance with Article VII hereof. Excess Net Profit 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 Phase I 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 Phase I 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 Phase I 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 Phase I 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, an annual 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, to be calculated annually.

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 (xx) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

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

The date of termination or expiration of this Agreement or the sale of the Phase I Project 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 Phase I 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).

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.

Nothing herein shall prohibit the Entity from (i) subdividing condominium unit 1 of the Phase I Project into multiple units (or any such units into further units) at any one time or from time

to time; or (ii) combining any condominium units on the Property with any other condominium units on the Property at any one time or from time to time. The City hereby approves and consents to any such subdivisions and combinations, and acknowledges and agrees that the Entity shall not be obligated to pay any fees hereunder in connection therewith.

Section 9.2 Transfer Application Fee

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

ARTICLE X - COMPLIANCE

Section 10.1 Operation

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

Section 10.2 Disclosure of Lobbyist Representative

During the term of this Agreement, the Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The Entity's failure to comply with the Executive Order or the Ordinance shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate the tax exemption.

ARTICLE XI - DEFAULT

Section 11.1 Default

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

Section 11.2 Cure Upon Default

Should the Entity be in Default, the City shall send written notice to the Entity of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The Entity shall have sixty (60) days, from receipt of the Default Notice, to cure any Default which shall be the sole and exclusive remedy available to the Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

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

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

Section 11.3 Remedies Upon Default

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

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

under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

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

ARTICLE XII- TERMINATION

Section 12.1 Termination Upon Default of the Entity

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

Section 12.2 Voluntary Termination by the Entity

Except for so long as Redevelopment Bonds are outstanding and secured by the Pledged Annual Service Charge (during which period the Entity shall not relinquish its status as a tax exempt project), 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 Phase I 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.

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

ARTICLE XIV - WAIVER

Section 14.1 Waiver

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or

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

ARTICLE XV - INDEMNIFICATION

Section 15.1 Defined

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

ARTICLE XVI- NOTICE

Section 16.1 Certified Mail

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

Section 16.2 Sent by City

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

Journal Square I Urban Renewal, LLC
c/o KRE Group
520 US Highway 22
P.O. Box 6872
Bridgewater, New Jersey 08807
Attn: David Kahan, Esq.

and

DeCotiis, FitzPatrick & Cole, LLP
Glenpointe Centre West
500 Frank W. Burr Blvd., Suite 31

Teaneck, NJ 07666
Attn: Jeffrey G. Kramer, Esq.

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

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

Section 16.3 Sent by Entity

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

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

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

ARTICLE XVII-SEVERABILITY

Section 17.1 Severability

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

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material

Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

ARTICLE XVIII - MISCELLANEOUS

Section 18.1 Construction

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

Section 18.2 Conflicts

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

Section 18.3 Oral Representations

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

Section 18.4 Entire Document

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

Section 18.5 Good Faith

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

ARTICLE XIX - EXHIBITS

Section 19.1 Schedules

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

1. Annual Service Charges.

Section 19.2 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 Rental Schedule and Lease Terms;
8. Project Employment & Contracting Agreement and Project Labor Agreement;
9. Architect's Certification of Actual Construction Costs;
10. Entity's Deed.

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

WITNESS:

JOURNAL SQUARE I URBAN RENEWAL, LLC

ATTEST:

CITY OF JERSEY CITY

ROBERT BYRNE
CITY CLERK

ROBERT J. KAKOLESKI
ACTING BUSINESS ADMINISTRATOR

City Clerk File No. Ord. 13.123

Agenda No. 3.F 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 13.123

[THIS ORDINANCE SECURES BONDS OR OTHER OBLIGATIONS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE "REDEVELOPMENT AREA BOND FINANCING LAW" AND THE LIEN HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-MUNICIPAL LIENS HEREINAFTER RECORDED.]

ORDINANCE APPROVING THE EXECUTION OF A FINANCIAL AGREEMENT WITH JOURNAL SQUARE II URBAN RENEWAL LLC AND OTHER APPLICABLE DOCUMENTS RELATED TO THE AUTHORIZATION AND ISSUANCE BY THE JERSEY CITY REDEVELOPMENT AGENCY OF NOT TO EXCEED \$10,000,000 REDEVELOPMENT AREA BONDS (NON-RECOURSE TO THE FULL FAITH AND CREDIT OF THE CITY) AND DETERMINING VARIOUS OTHER MATTERS IN CONNECTION THEREWITH

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

WHEREAS, on September 11, 2013, the Municipal Council of the City of Jersey City, in the County of Hudson, New Jersey (the "City"), adopted Ordinance No. 13-092, which designated various properties, including, but not limited to, Block 9501, Lots 4 (621 Pavonia Avenue), 5 (619 Pavonia Avenue), 6 (617 Pavonia Avenue), 7 (615 Pavonia Avenue), 8 (605 Pavonia Avenue), 10 (601 Pavonia Avenue), 11 (597 Pavonia Avenue), 12 (595 Pavonia Avenue), 13 (539 Summit Avenue), 14 (537 Summit Avenue), 15 (535 Summit Avenue), and 16 (136 Magnolia Avenue) as shown on the official current tax map of the City, as an area in need of redevelopment (the "Redevelopment Area" and also referred to as the "Project Premises") for purposes of the Local Redevelopment and Housing Law, constituting Chapter 79 of the Pamphlet Laws of 1992 of the State of New Jersey (the "State"), and the acts amendatory thereof and supplemental thereto (the "Redevelopment Law", as codified by N.J.S.A. 40A:12A-1 et seq.); and

WHEREAS, on July 14, 2010, the Municipal Council of the City adopted Ordinance No. 10-103, approving a redevelopment plan for the Redevelopment Area, entitled "Journal Square 2060 Redevelopment Plan" as the same may be amended and supplemented from time to time (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Area is governed by the Redevelopment Plan; and

WHEREAS, Journal Square Associates LLC ("JSA" or the "Redeveloper") is the fee title owner of the Project Premises; and

WHEREAS, the Redeveloper has made application to the Jersey City Redevelopment Agency (the "Agency") to be designated as the redeveloper to redevelop the Project Premises; and

WHEREAS, the Agency has reviewed the proposal of the Redeveloper and related submissions and has determined that it is in the Agency's best interests to select the Redeveloper as the designated redeveloper for the Project Premises for purposes of negotiating an agreement for the redevelopment of the designated area; and

WHEREAS, the Redeveloper will record a Master Deed (as the same may be amended and supplemented, the "Master Deed") to submit all of the Project Premises to the condominium form of ownership and incorporate the same as part of a condominium regime under the New Jersey Condominium Act, N.J.S.A. 46:8B-1 et seq., to be known as "Journal Squared Condominium"; and

WHEREAS, Journal Square I Urban Renewal LLC ("JS I"), wholly-owned by JSA, is or will be the owner of master condominium unit 1 (which condominium unit may be further subdivided as provided in accordance with the Master Deed) located on the Project Premises, upon which JS I plans to construct phase 1 of the redevelopment plan, which is expected to consist of a 54-story building having approximately 540 market-rate residential rental units, approximately 4,000 square feet of leasing space and potential future commercial space, a parking garage containing approximately 153 parking spaces, and an interim surface parking lot having approximately 74 parking spaces, together with a pedestrian mall and public improvements and infrastructure related thereto (collectively, the "Phase I Project"); and

WHEREAS, Journal Square II Urban Renewal LLC ("JS II"), wholly-owned by JSA, is or will be the owner of master condominium unit 2 (which condominium unit may be further subdivided as provided in accordance with the Master Deed) located on the Project Premises, upon which JS II plans to construct phase II of the redevelopment plan, which is expected to consist of a 70-story building having approximately 700 market-rate residential rental units, approximately 18,000 square feet of leasing space and potential future commercial space, and a parking garage containing approximately 522 parking spaces (collectively, the "Phase II Project"); and

WHEREAS, Journal Square III Urban Renewal LLC ("JS III"), wholly-owned by JSA, is or will be the owner of master condominium unit 3 (which condominium unit may be further subdivided as provided in accordance with the Master Deed) located on the Project Premises, upon which the Entity plans to construct phase III of the redevelopment plan, which is expected to consist of a 60-story building having approximately 600 market-rate residential rental units, approximately 14,000 square feet of leasing space and potential future commercial space, and a parking garage containing approximately 245 parking spaces (collectively, the "Phase III Project" and, together with the Phase I Project and Phase II Project, the "Project"); and

WHEREAS, the Redevelopment Area requires certain on-site and off-site public improvements and infrastructure, including a pedestrian mall, certain of which will be undertaken by the Redeveloper in connection with the Phase I Project, but which benefit the entire Project, including, if and when completed, the Phase II Project and Phase III Project; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-66, a municipality that has designated a redevelopment area may provide for tax abatement within that redevelopment area and for payments in lieu of taxes in accordance with the provisions of the Long Term Tax Exemption Law of 1992, constituting Chapter 431 of the Pamphlet Laws of 1991 of the State of New Jersey, and the Acts amendatory thereof and supplemental thereto (the "Tax Exemption Law", as codified in N.J.S.A. 40A:12A-1 et seq.); provided, however, that the provisions of section 12 of the Tax Exemption Law (N.J.S.A. 40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the term of the exemption period, and of section 13 of the Tax Exemption Law (N.J.S.A. 40A:20-13) permitting the relinquishment of status under that law, shall not apply to redevelopment projects financed with bonds; and

WHEREAS, pursuant to the Tax Exemption Law, the City is authorized to provide for tax exemption within a redevelopment area and for payments in lieu of taxes in accordance with the applicable provisions thereof; and

WHEREAS, JS II has submitted an application to the City for the approval of a project, as such term is used in the Tax Exemption Law, all in accordance with N.J.S.A. 40A:20-8 (the "Exemption Application", a copy of which is attached hereto as Exhibit A); and

WHEREAS, included in the Exemption Application is a request for a tax exemption and payment in lieu of taxes pursuant to the Tax Exemption Law and the Redevelopment Bond Law; and

WHEREAS, the Exemption Application contains documentation evidencing financial responsibility and capability with respect to the proposed development; estimated total development costs; estimated time schedule for start and completion of the proposed development; and conceptual plans; and

WHEREAS, the City evaluated the Exemption Application according to criteria which included financial capabilities, experience, expertise, and project concept descriptions; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the City will enter into a Financial Agreement with JS II, governing payments made to the City in lieu of real estate taxes on the Phase II Project pursuant to the Tax Exemption Law (the "Financial Agreement"); and

WHEREAS, to finance certain aspects of the Project, the Jersey City Redevelopment Agency (the "Agency") will issue bonds in an aggregate principal amount of up to \$10,000,000 (the "Redevelopment Area Bonds") pursuant to the Redevelopment Bond Law, debt service for the repayment of which Redevelopment Area Bonds will come from the Pledged Annual Service Charge (as that term is defined in the Financial Agreement attached hereto); and

WHEREAS, the City and JS II have each agreed that the Base Annual Service Charge (as that term is defined in the Financial Agreement attached hereto), which is not pledged to the payment of debt service on the Redevelopment Area Bonds, paid by JS II to the City shall be for the City's use in its sole discretion, following payment of the "County Service Charge" (as such term is defined in the Agreements attached hereto) to the County of Hudson, as required by N.J.S.A. 40A:20-12; and

WHEREAS, the City made the following findings:

In accordance with the Tax Exemption Law, specifically N.J.S.A. 40A:20-11, the City hereby finds and determines that the Financial Agreement is to the direct benefit of the health, welfare and financial well-being of the City and its citizens because the Agreement allows for the development of a blighted site into a productive, useful and job-creating property, and further:

- (a) The costs associated to the City with the tax exemption granted herein are minor compared to the estimated Total Project Cost of \$249,512,439 for Phase II and the benefit created by (i) the construction of the Improvements, (ii) the creation of approximately 920 jobs during the construction period and (iii) the creation of approximately 66 permanent jobs through the permanent operation of the Improvements.
- (b) Without the tax exemption granted herein it is highly unlikely that the Phase II Project would otherwise be undertaken, as a source of funding all or a portion of the costs thereof, other than from the proceeds of the Redevelopment Area Bonds, would not otherwise be available; and

WHEREAS, in order to set forth the terms and conditions under which JS II and the City (the "Parties") shall carry out their respective obligations with respect to (a) payment of the Annual Service Charge (as that term is defined in the Financial Agreement attached hereto) by JS II in lieu of real property taxes, and (b) issuance of the Redevelopment Area Bonds by the Agency and provision for repayment thereof by JS II (subject to adjustment as provided in the Financial Agreement), the Parties have determined to execute the Financial Agreement; and

WHEREAS, JS II is qualified to do business under the provisions of the Tax Exemption Law, and has submitted to the Mayor the Exemption Application, which is on file with the Office of the City Clerk, requesting a tax exemption for the Phase II Project; and

WHEREAS, there was also submitted to the Mayor by JS II the Financial Agreement; and

WHEREAS, the Mayor has submitted the Exemption Application and Financial Agreement to the Municipal Council with his written recommendation of approval (the "Mayor's Recommendation"), a copy of which is attached hereto as Exhibit B; and

WHEREAS, the Financial Agreement contemplates that the Annual Service Charge will be paid in two categories: the Base Annual Service Charge, to be retained (following payment of the County Service Charge) by the City for Municipal Services as set forth in the Tax Exemption Law; and the Pledged Annual Service Charge, said payments (subject to adjustment as provided in the Financial Agreement) to be dedicated to debt service on the Redevelopment Area Bonds issued to support certain costs of the Project, pursuant to Redevelopment Bond Law; and

WHEREAS, pursuant to the Redevelopment Bond Law, the City, in the exercise of its power under the Redevelopment Bond Law, may enter into contracts as necessary, for the purpose of securing the Redevelopment Area Bonds to finance the Project; and

WHEREAS, the Redevelopment Bond Law requires the approval of the New Jersey Local Finance Board prior to the issuance of financial instruments such as the Redevelopment Area Bonds where such financial instruments are to be secured by payments in lieu of taxes such as the Pledged Annual Service Charges (subject to adjustment as provided in the Financial Agreement); and

WHEREAS, the City believes that (a) it is in the public interest for JS II to undertake the Phase II Project; (b) the Phase II Project is for the health, welfare, convenience or betterment of the inhabitants of the City; (c) the amounts to be expended by the City for said Phase II Project are not unreasonable or exorbitant; and (d) the Phase II Project is an efficient and feasible means of providing services for the needs of the inhabitants of the City and will not create an undue financial burden to be placed upon the City; and

WHEREAS, the City further wishes to approve the execution and delivery of a Pledge and Assignment Agreement with the Agency and/or its bond trustee (the "Pledge Agreement"), which Pledge Agreement will provide for, inter alia, the pledge and assignment of the Pledged Annual Service Charge to the Agency or its bond trustee as security for the payment of debt service on the Redevelopment Area Bonds; and

WHEREAS, the terms of any trust indenture to be entered into by the Agency in connection with the issuance of the Redevelopment Area Bonds will provide terms and provisions relating to the disbursement of proceeds of the Redevelopment Area Bonds.

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

1. JSA is hereby designated to act as redeveloper for the Phase II Project, in accordance with the Redevelopment Plan and the plans and specifications contained in the Application, subject to the conditions and as more fully set forth in the form of Financial Agreement attached hereto. To the extent of any inconsistency with the definition of the "Phase II Project" as contained in the Redevelopment Agreement, the definition of the Phase II Project as contained herein and in the Financial Agreement shall control.
2. The Exemption Application, a copy of which is attached hereto as Exhibit A, is hereby approved in accordance with the Mayor's Recommendation, a copy of which is attached hereto as Exhibit B.
3. The Municipal Council hereby finds and determines that the Financial Agreement is to the direct benefit of the health, welfare and financial well-being of the City and its citizens because it allows for the development of a blighted site into a productive, useful and job-creating property, and further (a) the costs associated to the City with the tax exemption granted herein are minor compared to the estimated Total Project Cost of \$249,512,439 for Phase II and the benefit created by (i) the construction of the Improvements, (ii) the creation of approximately 920 jobs during the construction period and (iii) the creation of approximately 66 permanent jobs through the permanent operation of the Improvements, and (b) without the tax exemption granted herein it is highly unlikely that the Project would otherwise be undertaken, as a source of funding all or a portion of the costs thereof, other than from the proceeds of the Redevelopment Area Bonds, would not otherwise be available.

4. An exemption from taxation is hereby granted to JS II, with respect to the Phase II Project for the term set forth in the Financial Agreement, but in no event shall the tax exemption commence until the effective date of the Financial Agreement, nor extend beyond the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) thirty (30) years from the Substantial Completion of the Phase II Project (as defined in the Financial Agreement) and only so long as the Phase II Project is owned by an entity formed and operating under the Tax Exemption Law. To the extent of any inconsistency with any prior City ordinance and/or Municipal Code provision governing the granting of long-term tax exemptions, including, *inter alia*, procedures for application, review and approval, required terms of the financial agreement, required conditions and covenants, limits on duration, means of enforcement, and all other matters whatsoever, such prior City ordinances and/or Municipal Code provisions are hereby waived (or, alternatively, shall be deemed to be amended and/or superseded by this ordinance) to the extent of such inconsistency, but only with respect to this Ordinance.
5. The Financial Agreement, in substantially the form attached hereto as Exhibit C, is approved. The Mayor and the Deputy Mayor of the City (each, an "Authorized Officer") are each hereby authorized to execute, on the City's behalf, the Financial Agreement in substantially such form, with such changes as the Authorized Officers shall determine, in consultation with the Corporation Counsel, such determination to be conclusively evidenced by their execution of the Financial Agreement. The City Clerk is hereby authorized and directed to attest to the execution of the Financial Agreement by the Authorized Officers of the City as determined hereunder and to affix the corporate seal of the City to the Financial Agreement.
6. Pursuant to the provisions of the Redevelopment Bond Law, specifically N.J.S.A. 40A:12A-67(c) and, if applicable, N.J.S.A. 40A:12A-69, the City is hereby authorized to assign, for the benefit of the Agency and/or its bond trustee and as security for the Redevelopment Area Bonds, all of the City's right, title and interest in and to the Pledged Annual Service Charges. The Pledge Agreement, in substantially the form attached hereto as Exhibit D, is approved. The Authorized Officers, or either of them, are each hereby authorized to execute and deliver, on behalf of the City, the Pledge Agreement in substantially such form, with such changes as the Authorized Officers shall determine, in consultation with the Corporation Counsel, such determination to be conclusively evidenced by their execution of the Pledge Agreement. The Authorized Officers, or either of them, are each hereby further authorized to execute and deliver, on behalf of the City, such additional instruments as they may deem, in consultation with the Corporation Counsel, to be necessary or appropriate for the purpose of effectuating such assignment. The City Clerk is hereby authorized and directed to attest to the execution of the Pledge Agreement and any such additional instruments by the Authorized Officer(s) of the City as determined hereunder and to affix the corporate seal of the City thereto.
7. Executed copies of the Financial Agreement and the Pledge Agreement shall be certified by the City Clerk and filed with the Office of the City Clerk. The Office of the City Clerk shall also forthwith file certified copies of this ordinance and the Financial Agreement with the Director of the Division of Local Government Services pursuant to N.J.S.A. 40A:20-12.
8. Upon the execution of the Financial Agreement as contemplated herein, the Authorized Officers and the City Clerk are each hereby severally authorized and directed to file and record this Ordinance and the Financial Agreement with the Hudson County Register such that the Financial Agreement and this Ordinance shall be reflected upon the land records of the County of Hudson as a lien upon and a covenant running with each and every parcel of land constituting the Parcel. Pursuant to and in accordance with the provisions of the Redevelopment Bond Law, specifically N.J.S.A. 40A:12A-68(c), and notwithstanding any other law to the contrary, upon recordation of both this ordinance and the Financial Agreement, the lien thereof shall be perfected for all purposes in accordance with law and the lien shall thereafter be superior to all non-municipal liens thereafter recorded or otherwise arising, without any additional notice, recording, filing, continuation filing or action, until payment of all of the Redevelopment Area Bonds.
9. The Authorized Officers of the City are hereby further severally authorized and directed to (i) execute and deliver, and the City Clerk is hereby further authorized and directed to attest

- to such execution and to affix the corporate seal of the City to, any document, instrument or certificate deemed necessary, desirable or convenient by the Authorized Officers or the City Clerk, as applicable, in their respective sole discretion, after consulting with the Corporation Counsel, to be executed in connection with the execution and delivery of the Financial Agreement and the Pledge Agreement and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution and delivery thereof.
10. The Phase II Project when completed shall conform with all Federal and State law and ordinances and regulations of the City relating to its construction and use.
 11. JS II shall in the operation of the Phase II Project comply with all laws so that no person shall, because of race, religious principles, color, national origin or ancestry, be subject to any discrimination.
 12. JS II shall, from the time the Annual Service Charge becomes effective, pay the Annual Service Charge as set forth in the Financial Agreement.
 13. All City officers and professionals are hereby authorized to take all necessary and appropriate steps to assist and join with JS II (i) in connection with the required application to the New Jersey Local Finance Board for approval of the issuance of the Redevelopment Area Bonds (in an aggregate principal amount up to \$10,000,000.00 for the Project) for the funding of a part of the cost of the Project and (ii) in connection with the required application to the Agency for approval of its issuance of said Redevelopment Area Bonds.
 14. JS II shall pay all outstanding taxes and all outstanding water and sewer charges within thirty (30) days of the adoption of this Ordinance.
 15. JS II shall pay all outstanding taxes and all outstanding water and sewer charges within thirty (30) days of the adoption of this Ordinance.
 16. Term: the earlier of 35 years from the adoption of the within Ordinance or 30 years from the date the project is Substantially Complete;
 17. Annual Service Charge: each year the greater of:
 - (a) the Minimum Annual Service Charge equal to the amount of total taxes levied against all real property in the area covered by the Project in the last full tax year in which the Project was subject to taxation; or
 - (b) the Base Annual Service Charge, which is subject to staged increases, as set forth in the Financial Agreement, which sum is estimated to be approximately \$648,000 for the first year.
 18. Administrative Fee: 2% of the prior year's Annual Service Charge;
 19. County Payment: 5% of the Annual Service Charge to the City for remittance by the City to Hudson County;
 20. Project: A new mixed use market rate residential rental project, Master Condominium Unit 2, which will consist of a 70-story building having approximately 700 market-rate residential rental units, approximately 18,000 square feet of leasing space and potential future commercial space, a parking garage containing approximately 522 parking spaces;
 21. Affordable Housing Trust Fund: \$1,500 per unit or \$1,050,000 and \$1.50 per square foot x 18,000 square feet or \$27,000, for a total of \$1,077,000;
 22. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses;

23. This Ordinance will sunset and the Tax Exemption will terminate unless construction of the Project begins within five (5) years of the adoption of the within Ordinance.

A. 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.

B. 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.

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

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

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

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

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

DJ/he
10/17/13

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required

Not Required

Rev. 10-17-13
Long Term Tax Exemption
N.J.S.A. 40A:20-1, et seq.
(New Market Rate Res Rental FA)

Re: 595-621 Pavonia Avenue; 535-539 Summit
Avenue; 136 Magnolia Avenue
Approximately 2.23 Acres
Block 9501, Lots 4-8 and 10-16, Master Condo
Units 2
Journal Square 2060 Redevelopment Plan

PREAMBLE

THIS FINANCIAL AGREEMENT, [Agreement] is made the _____ day of __, 2013, by and between **JOURNAL SQUARE II URBAN RENEWAL, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at c/o KRE Group, 520 US Highway 22, P.O. Box 6872, Bridgewater, NJ 08807 [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, or will be the owner, of master condominium Unit 2, to be located on a portion of certain property designated as Block 9501, Lots 4-8 and 10-16, more commonly known by the street addresses of 595-621 Pavonia Avenue, 535-539 Summit Avenue, and 136 Magnolia Avenue, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement [Property]; and

WHEREAS, Property is located within the boundaries of the Journal Square 2060 Redevelopment Plan Area; and

WHEREAS, Journal Square Associates, LLC [JSA] is the current owner of the Property and has recorded, or will record, a Master Deed [Master Deed] to submit all of the Property to the condominium form of ownership and incorporate the same as part of a condominium regime under the New Jersey Condominium Act, N.J.S.A. 46:8B-1 et seq., to be known as “Journal Square

Condominium”; and

WHEREAS, the Entity has a contract to purchase the Property from Journal Square Associates, LLC [JSA], and will close on or before _____, a date preceding the execution of this Financial Agreement; and

WHEREAS, the Project will consist of nine (9) master condominium units to be developed in three (3) phases; and

WHEREAS, the Entity plans to construct Phase II of the Project, which will consist of a 70-story building having approximately 700 market-rate residential rental units, approximately 18,000 square feet of leasing space and potential future commercial space, a parking garage containing approximately 522 parking spaces [collectively, the Phase II Project]; and

WHEREAS, the interim surface parking lot will be designated in the Master Deed as an interim reserved common element for the exclusive use of the Entity until the construction of Phase II, at which time the parking lot will be replaced with the Phase II building and the 74 parking spaces will be included in Phase II of the project; and

WHEREAS, upon substantial completion, the Project will be leased by the Entity to Journal Square Associates Operating Company for a term of 20 years; and

WHEREAS, on December 5, 2012, the Project received a site plan approval from the Planning Board; and

WHEREAS, on September 26, 2013, the Entity filed an Application with the City for a long term tax exemption for the Phase II Project; and

WHEREAS, by the adoption of Ordinance _____ on _____, 2013, 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 \$406,621, whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately \$648,000;
 2. the Entity has paid the City the sum of \$1,077,000, as an affordable housing contribution pursuant to Ordinance 03-112, and the Phase II Project will

promote the appropriate development of affordable housing in the area;

3. it is expected that the Project will create approximately 920 new construction jobs and 66 new permanent full time jobs;
4. the Phase II Project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants;
5. the Phase II Project will further the redevelopment objectives of the Journal Square 2060 Redevelopment Plan, which include the promotion of the principals of smart growth and transit village development;
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 Phase II Project and influencing the locational decisions of probable occupants:

1. the relative stability and predictability of the annual service charges will make the Phase II Project more attractive to investors and lenders needed to finance the Phase II 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 Phase II Project, which will attract occupants to the Phase II Project, insure the likelihood of stabilized rents to tenants and the success of the Phase II Project; and
3. have a positive impact on the surrounding area.

WHEREAS, on _____, 2013, the Entity entered into that certain Redevelopment Agreement [Redevelopment Agreement] with Jersey City Redevelopment Agency [JCRA] in accordance with the Local Redevelopment and Housing Law, as amended and supplemented, N.J.S.A. 40A:12A-1 et seq. [Redevelopment Law]; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-66, a municipality that has designated a redevelopment area may provide for tax abatement within that redevelopment area and for payment in lieu of taxes in accordance with the provisions of the Long Term Tax Exemption Law; provided, however, that the provisions of section 12 of the Long Term Tax Exemption Law (N.J.S.A. 40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the term of the exemption period, and of section 13 of the Long Term Tax Exemption Law (N.J.S.A. 40A:20-13) permitting the relinquishment of status under that law,

shall not apply to redevelopment projects financed with bonds; and

WHEREAS, pursuant to the Redevelopment Law and Redevelopment Area Bond Financing Law, as amended and supplemented, N.J.S.A. 40A:12A-64 et seq. [RAB Law], the Project is a redevelopment project in a redevelopment area, within the meaning of such law, and JCRA has agreed in the Redevelopment Agreement to issue bonds to finance the Project [Redevelopment Bonds].

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 _____, 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. It is expressly understood and agreed that the Entity expressly relies upon this tax exemption, and the JCRA's issuance of Redevelopment Bonds, in undertaking the Phase II Project.

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. Base Annual Service Charge- That portion of the Annual Service Charge to be paid by the Entity to the City pursuant to Section 4.1(i) hereof. The Base Annual Service Charge shall not be pledged to pay Redevelopment Bonds.

vii. 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.

viii. County Annual Service Charge- That portion of the Annual Service Charge to be paid by the City to the County pursuant to Section 4.1(ii) hereof.

ix. 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.

x. 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.

xi. Entity - The term Entity within this Agreement shall mean Journal Square II 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.

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

xiii. 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.

xiv. 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, except that any land taxes paid on the interim surface parking area shall not be applied as a credit to the Annual Service Charge.

xv. 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.

xvi. 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.

xvii. Lease Up Period - Shall begin on the first day of the month following the issuance

of the first Certificate of Occupancy (whether permanent or temporary) for the Phase II Project (Lease Up Date). During the Lease Up Period, the Entity shall pay the sum equal to the estimated Annual Service Charge divided by the number of units in the Phase II Project divided by 12 for each month at the rate of 25 units per month for the first month and an additional 25 units each month thereafter through the 20th month after Lease Up Date, whether or not the units are actually occupied or generate revenue. The Lease Up Period for the Project expires 20 calendar months after the Lease Up Date.

xviii. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the greater of: (a) the amount of the total taxes levied against the Property, as allocated to the Phase II Project, in the last full tax year in which the area was subject to taxation. The parties agree that the amount of the total taxes levied against the Property in the last full tax year is \$406,620.76, of which \$119,334.35 shall be allocated to condominium unit 1 (based upon 540 units in the Phase I Project divided by 1,840 total expected units, which amount shall be the Minimum Annual Service Charge for purposes hereof), [\$154,692.68 shall be allocated to condominium unit 2 (based upon 700 expected units in the Phase II Project divided by 1,840 total expected units), and \$132,593.73 shall be allocated to condominium unit 3 (based upon 600 expected units in the Phase III Project divided by 1,840 total expected units)].

xix. 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.

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

xxi. Pledged Annual Service Charge - That portion of the Annual Service Charge to be paid by the Entity pursuant to Section 4.1 (iii) hereof. The Pledged Annual Service Charge shall be pledged to pay Redevelopment Bonds.

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

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

xxiv. 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 from Total Project Cost the actual costs incurred by the Entity and certified by an independent and qualified architect or engineer, which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or Federal law and any extraordinary costs incurred including the cost of demolishing structures, relocation or removal of public utilities, cost of relocating displaced residents or buildings and the clearing of title, if applicable.

xxv. Trust Indenture- That certain Indenture of Trust, Bond Agreement, or other similar form of agreement, as it may be amended and supplemented, to be entered into by and between the JCRA and the bond trustee, or other person acting in a similar capacity, with respect to the

Redevelopment Bonds.

ARTICLE II - APPROVAL

Section 2.1 Approval of Tax Exemption

A. Improvements. The City hereby grants its approval for a tax exemption for master condominium unit 1 (and if and when created, all condominium units subdivided therefrom), constituting 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 the Property.

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 the Phase II Project; 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 Phase 1 Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5.

Section 2.5 Ownership, Management and Control

The Entity represents that it is the owner of Master Condominium Unit 1 and, if and when created, the Entity will be the owner of condominium units subdivided therefrom, and has exclusive right to use the area for the interim surface parking lot, all comprising the Phase II Project is to be constructed. Upon construction, the Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and any Redevelopment Agreement.

Section 2.6 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 lease terms for 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 35 years from the date of the adoption of Ordinance _____ on _____, 2013, which approved the tax exemption or 30 years from the original date of Substantial Completion of the Phase II Project. The tax exemption shall only be effective during the period of usefulness of the Phase II Project and shall continue in force only while the Phase II Project is owned by an entity or association formed and operating under the Law.

ARTICLE IV - ANNUAL SERVICE CHARGE

Section 4.1 Annual Service Charge

In consideration of the tax exemption, the Entity shall make the following annual payments to the City (other than the County Service Charge, which shall be paid by the City to the County) for the services provided to the Phase II Project:

- i. Base Annual Service Charge: The Entity shall pay to the City the Base Annual Service Charge in the amounts set forth on Schedule 1 attached hereto, as adjusted pursuant to the terms hereof. Year 1 of Schedule 1 shall be upon Substantial Completion of the Phase II Project.
- 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. Pledged Annual Service Charge: For so long as Redevelopment Bonds are outstanding and secured by the Pledged Annual Service charge, the Entity shall pay to the City (which payment shall be assigned by the City to the Trustee in accordance with the Trust Indenture to pay Redevelopment Bonds) the Pledged Annual Service Charge in the amounts set forth in

Schedule 1 attached hereto. The Pledged Annual Service Charge for the Phase II Project shall be adjusted upon completion of each of the Phase III Project and Phase IIII Project to allocate a portion of such service charges to such projects. Such allocation to each phase shall be determined annually on a pro rata basis by dividing the number of completed residential units in such phase by the number of completed residential units on the Property. The Pledged Annual Service Charge shall be adjusted, at the direction of the Entity, to reflect any redemption, refunding, prepayment or other change in the debt service requirements with respect to the Redevelopment Bonds. The Pledged Annual Service Charge shall terminate at such time as Redevelopment Bonds are no longer outstanding or no longer secured by the Pledged Annual Service Charge.

iv. The Minimum Annual Service Charge set forth in Section 1.2(xviii) shall be due beginning on the effective date of this Agreement. Beginning on the first day of the month after Substantial Completion, subject only to the Lease Up Period, the Minimum Annual Service Charge set forth in Section 1.2(xviii) shall be due in any year where it exceeds the Annual Service Charge. 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.

v. Up-Front Payment of Annual Service Charge. Within five (5) business days following the date of Substantial Completion, the Entity shall pay \$1,797,000.00 (One Million Seven Hundred Ninety Seven Thousand Dollars) [Up-Front Service Charges] to the City. The amount, if any, by which Land Taxes exceed the Annual Service Charge in any year shall be credited against the Prepaid Service Charges until such time as the Up-Front Service Charges are exhausted by such credits.

vi. Credit for Impositions on the Phase II Project and Phase III Project. Until Substantial Completion (as such term is defined in the Phase II Financial Agreement and Phase III Financial Agreement, respectively) of each of the Phase II Project and the Phase III Project, the Base Annual Service Charge payable hereunder shall be reduced by the amount of all land taxes, improvement taxes, service charges and other impositions on the property comprising such projects. Such credit shall be applied against the Base Annual Service Charge in the year in which such impositions are payable with respect to such projects.

Section 4.2 No Staged Adjustments

Pursuant to the RAB Law (N.J.S.A. 40A:12A-66), service charges payable hereunder shall not be adjusted in stages over the term of the tax exemption period in accordance with N.J.S.A. 40A:20-12.

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, in order to be entitled to a Land Tax credit against the Base 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 Base Annual Service Charge. Land Tax Payments shall not be credited against the Pledged 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 Base Annual Service Charge until the Land Taxes are paid in full. No credit will be applied against the Base Annual Service Charge for a partial payment of Land Taxes until they are paid in full. 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 ninety (90) 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. No

administrative Fee shall be payable with respect to the Prepaid Service Charge.

Section 4.6 Affordable Housing Contribution and Remedies

A. **Contribution.** The Entity will pay the City the sum of \$1,077,000 or \$1,500 per residential unit for 700 units (\$1,050,000), plus \$1.50 per square foot of commercial space (\$27,000) as a contribution for affordable housing. The sum shall be due and payable as follows: the entire contribution shall be paid on or before the effective date of the ordinance approving the tax exemption.

Section 4.7 Material Conditions

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

ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT

Section 5.1 Project Employment and Contracting Agreement

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

Section 5.2 Project Labor Agreement

The Entity shall execute a Project Labor Agreement as required by Ordinance 07-123 as it exists or as it may be amended from time to time.

ARTICLE VI - CERTIFICATE OF OCCUPANCY

Section 6.1 Certificate of Occupancy

It is understood and agreed that it shall be the obligation of the Entity to obtain all Certificates of Occupancy in a timely manner so as to complete construction substantially in accordance with the proposed construction schedule attached hereto as Exhibit 5.

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 (**DO NOT CONFUSE WITH ‘MITIGATE’**) against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by the Entity.

ARTICLE VII - ANNUAL REPORTS

Section 7.1 Accounting System

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

Section 7.2 Periodic Reports

A. Auditor’s Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the Entity’s accounting basis that the Agreement shall continue in effect, the Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor’s Report for the preceding fiscal or calendar year. The Auditor’s Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Phase 1 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, plus excess net profit, if any, in accordance with Article VII hereof. Excess Net Profit 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 Phase II 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 Phase II 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 Phase II 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 Phase II 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, an annual 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 to be calculated annually.

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 (xx) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

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

The date of termination or expiration of this Agreement or the sale of the Phase II Project 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 Phase II 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).

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.

Nothing herein shall prohibit the Entity from (i) subdividing condominium unit 1 of the Phase II Project into multiple units (or any such units into further units) at any one time or from time to time; or (ii) combining any condominium units on the Property with any other condominium units on the Property at any one time or from time to time. The City hereby approves and consents to any

such subdivisions and combinations, and acknowledges and agrees that the Entity shall not be obligated to pay any fees hereunder in connection therewith.

Section 9.2 Transfer Application Fee

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

ARTICLE X - COMPLIANCE

Section 10.1 Operation

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

Section 10.2 Disclosure of Lobbyist Representative

During the term of this Agreement, the Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The Entity's failure to comply with the Executive Order or the Ordinance shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate the tax exemption.

ARTICLE XI - DEFAULT

Section 11.1 Default

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

Section 11.2 Cure Upon Default

Should the Entity be in Default, the City shall send written notice to the Entity of the Default

[Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The Entity shall have sixty (60) days, from receipt of the Default Notice, to cure any Default which shall be the sole and exclusive remedy available to the Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

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

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

Section 11.3 Remedies Upon Default

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

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided in Article XI herein, but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against the Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service

Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

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

ARTICLE XII- TERMINATION

Section 12.1 Termination Upon Default of the Entity

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

Section 12.2 Voluntary Termination by the Entity

Except for so long as Redevelopment Bonds are outstanding and secured by the Pledged Annual Service Charge (during which period the Entity shall not relinquish its status as a tax exempt project), 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 Phase II 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.

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

ARTICLE XIV - WAIVER

Section 14.1 Waiver

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement and tax exemption for violation of any of the conditions provided herein.

Nothing herein shall be deemed to limit the City's right to audit or recover any amount which the City has under law, in equity, or under any provision of this Agreement.

ARTICLE XV - INDEMNIFICATION

Section 15.1 Defined

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

ARTICLE XVI- NOTICE

Section 16.1 Certified Mail

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

Section 16.2 Sent by City

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

Journal Square II Urban Renewal, LLC
c/o KRE Group
520 US Highway 22
P.O. Box 6872
Bridgewater, New Jersey 08807
Attn: David Kahan, Esq.

and

DeCotiis, FitzPatrick & Cole, LLP
Glenpointe Centre West
500 Frank W. Burr Blvd., Suite 31
Teaneck, NJ 07666
Attn: Jeffrey G. Kramer, Esq.

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

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

Section 16.3 Sent by Entity

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

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

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

ARTICLE XVII-SEVERABILITY

Section 17.1 Severability

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

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

ARTICLE XVIII - MISCELLANEOUS

Section 18.1 Construction

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

Section 18.2 Conflicts

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

Section 18.3 Oral Representations

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

Section 18.4 Entire Document

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

Section 18.5 Good Faith

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

ARTICLE XIX - EXHIBITS

Section 19.1 Schedules

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

1. Annual Service Charges.

Section 19.2 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 Rental Schedule and Lease Terms;
8. Project Employment & Contracting Agreement and Project Labor Agreement;
9. Architect's Certification of Actual Construction Costs;
10. Entity's Deed.

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

WITNESS:

JOURNAL SQUARE II URBAN RENEWAL, LLC

ATTEST:

CITY OF JERSEY CITY

ROBERT BYRNE
CITY CLERK

ROBERT J. KAKOLESKI
ACTING BUSINESS ADMINISTRATOR

City Clerk File No. Ord. 13.124

Agenda No. 3.6 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 13.124

TITLE [THIS ORDINANCE SECURES BONDS OR OTHER OBLIGATIONS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE "REDEVELOPMENT AREA BOND FINANCING LAW" AND THE LIEN HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-MUNICIPAL LIENS HEREINAFTER RECORDED.]

ORDINANCE APPROVING THE EXECUTION OF A FINANCIAL AGREEMENT WITH JOURNAL SQUARE III URBAN RENEWAL LLC AND OTHER APPLICABLE DOCUMENTS RELATED TO THE AUTHORIZATION AND ISSUANCE BY THE JERSEY CITY REDEVELOPMENT AGENCY OF NOT TO EXCEED \$10,000,000 REDEVELOPMENT AREA BONDS (NON-RECOURSE TO THE FULL FAITH AND CREDIT OF THE CITY) AND DETERMINING VARIOUS OTHER MATTERS IN CONNECTION THEREWITH

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

WHEREAS, on September 11, 2013, the Municipal Council of the City of Jersey City, in the County of Hudson, New Jersey (the "City"), adopted Ordinance No. 092, which designated various properties, including, but not limited to, Block 9501, Lots 4 (621 Pavonia Avenue), 5 (619 Pavonia Avenue), 6 (617 Pavonia Avenue), 7 (615 Pavonia Avenue), 8 (605 Pavonia Avenue), 10 (601 Pavonia Avenue), 11 (597 Pavonia Avenue), 12 (595 Pavonia Avenue), 13 (539 Summit Avenue), 14 (537 Summit Avenue), 15 (535 Summit Avenue), and 16 (136 Magnolia Avenue) as shown on the official current tax map of the City, as an area in need of redevelopment (the "Redevelopment Area" and also referred to as the "Project Premises") for purposes of the Local Redevelopment and Housing Law, constituting Chapter 79 of the Pamphlet Laws of 1992 of the State of New Jersey (the "State"), and the acts amendatory thereof and supplemental thereto (the "Redevelopment Law", as codified by N.J.S.A. 40A:12A-1 et seq.); and

WHEREAS, on July 14, 2010, the Municipal Council of the City adopted Ordinance No. 10-103, approving a redevelopment plan for the Redevelopment Area, entitled "Journal Square 2060 Redevelopment Plan" as the same may be amended and supplemented from time to time (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Area is governed by the Redevelopment Plan; and

WHEREAS, Journal Square Associates LLC ("JSA" or the "Redeveloper") is the fee title owner of the Project Premises; and

WHEREAS, the Redeveloper has made application to the Jersey City Redevelopment Agency (the "Agency") to be designated as the redeveloper to redevelop the Project Premises; and

WHEREAS, the Agency has reviewed the proposal of the Redeveloper and related submissions and has determined that it is in the Agency's best interests to select the Redeveloper as the designated redeveloper for the Project Premises for purposes of negotiating an agreement for the redevelopment of the designated area; and

WHEREAS, the Redeveloper will record a Master Deed (as the same may be amended and supplemented, the "Master Deed") to submit all of the Project Premises to the condominium form of ownership and incorporate the same as part of a condominium regime under the New Jersey Condominium Act, N.J.S.A. 46:8B-1 et seq., to be known as "Journal Squared Condominium"; and

WHEREAS, Journal Square I Urban Renewal LLC ("JS I"), wholly-owned by JSA, is or will be the owner of master condominium unit 1 (which condominium unit may be further subdivided as provided in accordance with the Master Deed) located on the Project Premises, upon which JS I plans to construct phase I of the redevelopment plan, which is expected to consist of a 54-story building having approximately 540 market-rate residential rental units, approximately 4,000 square feet of leasing space and potential future commercial space, a parking garage containing approximately 153 parking spaces, and an interim surface parking lot having approximately 74 parking spaces, together with a pedestrian mall and public improvements and infrastructure related thereto (collectively, the "Phase I Project"); and

WHEREAS, Journal Square II Urban Renewal LLC ("JS II"), wholly-owned by JSA, is or will be the owner of master condominium unit 2 (which condominium unit may be further subdivided as provided in accordance with the Master Deed) located on the Project Premises, upon which JS II plans to construct phase II of the redevelopment plan, which is expected to consist of a 70-story building having approximately 700 market-rate residential rental units, approximately 18,000 square feet of leasing space and potential future commercial space, and a parking garage containing approximately 522 parking spaces (collectively, the "Phase II Project"); and

WHEREAS, Journal Square III Urban Renewal LLC ("JS III"), wholly-owned by JSA, is or will be the owner of master condominium unit 3 (which condominium unit may be further subdivided as provided in accordance with the Master Deed) located on the Project Premises, upon which the Entity plans to construct phase III of the redevelopment plan, which is expected to consist of a 60-story building having approximately 600 market-rate residential rental units, approximately 14,000 square feet of leasing space and potential future commercial space, and a parking garage containing approximately 245 parking spaces (collectively, the "Phase III Project" and, together with the Phase I Project and Phase II Project, the "Project"); and

WHEREAS, the Redevelopment Area requires certain on-site and off-site public improvements and infrastructure, including a pedestrian mall, certain of which will be undertaken by the Redeveloper in connection with the Phase I Project, but which benefit the entire Project, including, if and when completed, the Phase II Project and Phase III Project;

WHEREAS, pursuant to N.J.S.A. 40A:12A-66, a municipality that has designated a redevelopment area may provide for tax abatement within that redevelopment area and for payments in lieu of taxes in accordance with the provisions of the Long Term Tax Exemption Law of 1992, constituting Chapter 431 of the Pamphlet Laws of 1991 of the State of New Jersey, and the Acts amendatory thereof and supplemental thereto (the "Tax Exemption Law", as codified in N.J.S.A. 40A:12A-1 et seq.); provided, however, that the provisions of section 12 of the Tax Exemption Law (N.J.S.A. 40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the term of the exemption period, and of section 13 of the Tax Exemption Law (N.J.S.A. 40A:20-13) permitting the relinquishment of status under that law, shall not apply to redevelopment projects financed with bonds; and

WHEREAS, pursuant to the Tax Exemption Law, the City is authorized to provide for tax exemption within a redevelopment area and for payments in lieu of taxes in accordance with the applicable provisions thereof; and

WHEREAS, JS III has submitted an application to the City for the approval of a project, as such term is used in the Tax Exemption Law, all in accordance with N.J.S.A. 40A:20-8 (the "Exemption Application", a copy of which is attached hereto as Exhibit A); and

WHEREAS, included in the Exemption Application is a request for a tax exemption and payment in lieu of taxes pursuant to the Tax Exemption Law and the Redevelopment Bond Law; and

WHEREAS, the Exemption Application contains documentation evidencing financial responsibility and capability with respect to the proposed development; estimated total development costs; estimated time schedule for start and completion of the proposed development; and conceptual plans; and

WHEREAS, the City evaluated the Exemption Application according to criteria which included financial capabilities, experience, expertise, and project concept descriptions; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the City will enter into a Financial Agreement with JS III, governing payments made to the City in lieu of real estate taxes on the Phase III Project pursuant to the Tax Exemption Law (the "Financial Agreement"); and

WHEREAS, to finance certain aspects of the Project, the Jersey City Redevelopment Agency (the "Agency") will issue bonds in an aggregate principal amount of up to \$10,000,000 (the "Redevelopment Area Bonds") pursuant to the Redevelopment Bond Law, debt service for the repayment of which Redevelopment Area Bonds will come from the Pledged Annual Service Charge (as that term is defined in the Financial Agreement attached hereto); and

WHEREAS, the City and JS III have each agreed that the Base Annual Service Charge (as that term is defined in the Financial Agreement attached hereto), which is not pledged to the payment of debt service on the Redevelopment Area Bonds, paid by JS III to the City shall be for the City's use in its sole discretion, following payment of the "County Service Charge" (as such term is defined in the Agreements attached hereto) to the County of Hudson, as required by N.J.S.A. 40A:20-12; and

WHEREAS, the City made the following findings:

In accordance with the Tax Exemption Law, specifically N.J.S.A. 40A:20-11, the City hereby finds and determines that the Financial Agreement is to the direct benefit of the health, welfare and financial well-being of the City and its citizens because the Agreement allows for the development of a blighted site into a productive, useful and job-creating property, and further:

- (a) The costs associated to the City with the tax exemption granted herein are minor compared to the estimated Total Project Cost of \$212,793,640 for Phase III and the benefit created by (i) the construction of the Improvements, (ii) the creation of approximately 790 jobs during the construction period and (iii) the creation of approximately 57 permanent jobs through the permanent operation of the Improvements.
- (b) Without the tax exemption granted herein it is highly unlikely that the Phase III Project would otherwise be undertaken, as a source of funding all or a portion of the costs thereof, other than from the proceeds of the Redevelopment Area Bonds, would not otherwise be available; and

WHEREAS, in order to set forth the terms and conditions under which JS III and the City (the "Parties") shall carry out their respective obligations with respect to (a) payment of the Annual Service Charge (as that term is defined in the Financial Agreement attached hereto) by JS III in lieu of real property taxes, and (b) issuance of the Redevelopment Area Bonds by the Agency and provision for repayment thereof by JS III (subject to adjustment as provided in the Financial Agreement), the Parties have determined to execute the Financial Agreement; and

WHEREAS, JS III is qualified to do business under the provisions of the Tax Exemption Law, and has submitted to the Mayor the Exemption Application, which is on file with the Office of the City Clerk, requesting a tax exemption for the Phase III Project; and

WHEREAS, there was also submitted to the Mayor by JS III the Financial Agreement; and

WHEREAS, the Mayor has submitted the Exemption Application and Financial Agreement to the Municipal Council with his written recommendation of approval (the "Mayor's Recommendation"), a copy of which is attached hereto as Exhibit B; and

WHEREAS, the Financial Agreement contemplates that the Annual Service Charge will be paid in two categories: the Base Annual Service Charge, to be retained (following payment of the County Service Charge) by the City for Municipal Services as set forth in the Tax Exemption Law; and the Pledged Annual Service Charge, said payments (subject to adjustment as provided in the Financial Agreement) to be dedicated to debt service on the Redevelopment Area Bonds issued to support certain costs of the Project, pursuant to Redevelopment Bond Law; and

WHEREAS, pursuant to the Redevelopment Bond Law, the City, in the exercise of its power under the Redevelopment Bond Law, may enter into contracts as necessary, for the purpose of securing the Redevelopment Area Bonds to finance the Project; and

WHEREAS, the Redevelopment Bond Law requires the approval of the New Jersey Local Finance Board prior to the issuance of financial instruments such as the Redevelopment Area Bonds where such financial instruments are to be secured by payments in lieu of taxes such as the Pledged Annual Service Charges (subject to adjustment as provided in the Financial Agreement); and

WHEREAS, the City believes that (a) it is in the public interest for JS III to undertake the Phase III Project; (b) the Phase III Project is for the health, welfare, convenience or betterment of the inhabitants of the City; (c) the amounts to be expended by the City for said Phase III Project are not unreasonable or exorbitant; and (d) the Phase III Project is an efficient and feasible means of providing services for the needs of the inhabitants of the City and will not create an undue financial burden to be placed upon the City; and

WHEREAS, the City further wishes to approve the execution and delivery of a Pledge and Assignment Agreement with the Agency and/or its bond trustee (the "Pledge Agreement"), which Pledge Agreement will provide for, inter alia, the pledge and assignment of the Pledged Annual Service Charge to the Agency or its bond trustee as security for the payment of debt service on the Redevelopment Area Bonds; and

WHEREAS, the terms of any trust indenture to be entered into by the Agency in connection with the issuance of the Redevelopment Area Bonds will provide terms and provisions relating to the disbursement of proceeds of the Redevelopment Area Bonds.

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

1. JSA is hereby designated to act as redeveloper for the Phase III Project, in accordance with the Redevelopment Plan and the plans and specifications contained in the Application, subject to the conditions and as more fully set forth in the form of Financial Agreement attached hereto. To the extent of any inconsistency with the definition of the "Phase III Project" as contained in the Redevelopment Agreement, the definition of the Phase III Project as contained herein and in the Financial Agreement shall control.
2. The Exemption Application, a copy of which is attached hereto as Exhibit A, is hereby approved in accordance with the Mayor's Recommendation, a copy of which is attached hereto as Exhibit B.
3. The Municipal Council hereby finds and determines that the Financial Agreement is to the direct benefit of the health, welfare and financial well-being of the City and its citizens because it allows for the development of a blighted site into a productive, useful and job-creating property, and further (a) the costs associated to the City with the tax exemption granted herein are minor compared to the estimated Total Project Cost of \$212,793,640 for Phase III and the benefit created by (i) the construction of the Improvements, (ii) the creation of approximately 790 jobs during the construction period and (iii) the creation of approximately 57 permanent jobs through the permanent operation of the Improvements, and (b) without the tax exemption granted herein it is highly unlikely that the Project would

otherwise be undertaken, as a source of funding all or a portion of the costs thereof; other than from the proceeds of the Redevelopment Area Bonds, would not otherwise be available.

4. An exemption from taxation is hereby granted to JS III, with respect to the Phase III Project for the term set forth in the Financial Agreement, but in no event shall the tax exemption commence until the effective date of the Financial Agreement, nor extend beyond the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) thirty (30) years from the Substantial Completion of the Phase III Project (as defined in the Financial Agreement) and only so long as the Phase III Project is owned by an entity formed and operating under the Tax Exemption Law. To the extent of any inconsistency with any prior City ordinance and/or Municipal Code provision governing the granting of long-term tax exemptions, including, inter alia, procedures for application, review and approval, required terms of the financial agreement, required conditions and covenants, limits on duration, means of enforcement, and all other matters whatsoever, such prior City ordinances and/or Municipal Code provisions are hereby waived (or, alternatively, shall be deemed to be amended and/or superseded by this ordinance) to the extent of such inconsistency, but only with respect to this Ordinance.
5. The Financial Agreement, in substantially the form attached hereto as Exhibit C, is approved. The Mayor and the Deputy Mayor of the City (each, an "Authorized Officer") are each hereby authorized to execute, on the City's behalf, the Financial Agreement in substantially such form, with such changes as the Authorized Officers shall determine, in consultation with the Corporation Counsel, such determination to be conclusively evidenced by their execution of the Financial Agreement. The City Clerk is hereby authorized and directed to attest to the execution of the Financial Agreement by the Authorized Officers of the City as determined hereunder and to affix the corporate seal of the City to the Financial Agreement.
6. Pursuant to the provisions of the Redevelopment Bond Law, specifically N.J.S.A. 40A:12A-67(c) and, if applicable, N.J.S.A. 40A:12A-69, the City is hereby authorized to assign, for the benefit of the Agency and/or its bond trustee and as security for the Redevelopment Area Bonds, all of the City's right, title and interest in and to the Pledged Annual Service Charges. The Pledge Agreement, in substantially the form attached hereto as Exhibit D, is approved. The Authorized Officers, or either of them, are each hereby authorized to execute and deliver, on behalf of the City, the Pledge Agreement in substantially such form, with such changes as the Authorized Officers shall determine, in consultation with the Corporation Counsel, such determination to be conclusively evidenced by their execution of the Pledge Agreement. The Authorized Officers, or either of them, are each hereby further authorized to execute and deliver, on behalf of the City, such additional instruments as they may deem, in consultation with the Corporation Counsel, to be necessary or appropriate for the purpose of effectuating such assignment. The City Clerk is hereby authorized and directed to attest to the execution of the Pledge Agreement and any such additional instruments by the Authorized Officer(s) of the City as determined hereunder and to affix the corporate seal of the City thereto.
7. Executed copies of the Financial Agreement and the Pledge Agreement shall be certified by the City Clerk and filed with the Office of the City Clerk. The Office of the City Clerk shall also forthwith file certified copies of this ordinance and the Financial Agreement with the Director of the Division of Local Government Services pursuant to N.J.S.A. 40A:20-12.
8. Upon the execution of the Financial Agreement as contemplated herein, the Authorized Officers and the City Clerk are each hereby severally authorized and directed to file and record this Ordinance and the Financial Agreement with the Hudson County Register such that the Financial Agreement and this Ordinance shall be reflected upon the land records of the County of Hudson as a lien upon and a covenant running with each and every parcel of land constituting the Parcel. Pursuant to and in accordance with the provisions of the Redevelopment Bond Law, specifically N.J.S.A. 40A:12A-68(c), and notwithstanding any other law to the contrary, upon recordation of both this ordinance and the Financial Agreement, the lien thereof shall be perfected for all purposes in accordance with law and the lien shall thereafter be superior to all non-municipal liens thereafter recorded or otherwise arising, without any additional notice, recording, filing, continuation filing or action, until

payment of all of the Redevelopment Area Bonds.

9. The Authorized Officers of the City are hereby further severally authorized and directed to (i) execute and deliver, and the City Clerk is hereby further authorized and directed to attest to such execution and to affix the corporate seal of the City to, any document, instrument or certificate deemed necessary, desirable or convenient by the Authorized Officers or the City Clerk, as applicable, in their respective sole discretion, after consulting with the Corporation Counsel, to be executed in connection with the execution and delivery of the Financial Agreement and the Pledge Agreement and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution and delivery thereof.
10. The Phase III Project when completed shall conform with all Federal and State law and ordinances and regulations of the City relating to its construction and use.
11. JS III shall in the operation of the Phase III Project comply with all laws so that no person shall, because of race, religious principles, color, national origin or ancestry, be subject to any discrimination.
12. JS III shall, from the time the Annual Service Charge becomes effective, pay the Annual Service Charge as set forth in the Financial Agreement.
13. All City officers and professionals are hereby authorized to take all necessary and appropriate steps to assist and join with JS III (i) in connection with the required application to the New Jersey Local Finance Board for approval of the issuance of the Redevelopment Area Bonds (in an aggregate principal amount up to \$10,000,000.00 for the Project) for the funding of a part of the cost of the Project and (ii) in connection with the required application to the Agency for approval of its issuance of said Redevelopment Area Bonds.
14. JS III shall pay all outstanding taxes and all outstanding water and sewer charges within thirty (30) days of the adoption of this Ordinance.
15. This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.
16. Term: the earlier of 35 years from the adoption of the within Ordinance or 30 years from the date the project is Substantially Complete;
17. Annual Service Charge: each year the greater of:
 - (a) the Minimum Annual Service Charge equal to the amount of total taxes levied against all real property in the area covered by the Project in the last full tax year in which the Project was subject to taxation; or
 - (b) the Base Annual Service Charge, which is subject to staged increases, as set forth in the Financial Agreement, which sum is estimated to be approximately \$648,000 for the first year.
18. Administrative Fee: 2% of the prior year's Annual Service Charge;
19. County Payment: 5% of the Annual Service Charge to the City for remittance by the City to Hudson County;
20. Project: A new mixed use market rate residential rental project, Master Condominium Unit 3, which will consist of a 60-story building having approximately 600 market-rate residential rental units, approximately 14,000 square feet of leasing space and potential future commercial space, a parking garage containing approximately 245 parking spaces;

- 21. Affordable Housing Trust Fund: \$1,500 per unit or \$900,000 and \$1.50 per square foot x 14,000 square feet or \$21,000, for a total of \$921,000;
- 22. An obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses;
- 23. This Ordinance will sunset and the Tax Exemption will terminate unless construction of the Project begins within ten (10) years of the adoption of the within Ordinance.
 - A. 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.
 - B. 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.
 - C. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
 - D. This ordinance shall be part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
 - E. This ordinance shall take effect at the time and in the manner provided by law.
 - F. The City Clerk and Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

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

DJ/he
10/17/13

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required
Not Required

Rev. 10-17-13
Long Term Tax Exemption
N.J.S.A. 40A:20-1, et seq.
(New Market Rate Res Rental FA)

Re: 595-621 Pavonia Avenue; 535-539 Summit
Avenue; 136 Magnolia Avenue
Approximately 2.23 Acres
Block 9501, Lots 4-8 and 10-16, Master Condo
Unit 3
Journal Square 2060 Redevelopment Plan

PREAMBLE

THIS FINANCIAL AGREEMENT, [Agreement] is made the _____ day of __, 2013, by and between **JOURNAL SQUARE III URBAN RENEWAL, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at c/o KRE Group, 520 US Highway 22, P.O. Box 6872, Bridgewater, NJ 08807 [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, or will be the owner, of master condominium Unit 3, to be located on a portion of certain property designated as Block 9501, Lots 4-8 and 10-16, more commonly known by the street addresses of 595-621 Pavonia Avenue, 535-539 Summit Avenue, and 136 Magnolia Avenue, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement [Property]; and

WHEREAS, Property is located within the boundaries of the Journal Square 2060 Redevelopment Plan Area; and

WHEREAS, Journal Square Associates, LLC [JSA] is the current owner of the Property and has recorded, or will record, a Master Deed [Master Deed] to submit all of the Property to the condominium form of ownership and incorporate the same as part of a condominium regime under the New Jersey Condominium Act, N.J.S.A. 46:8B-1 et seq., to be known as "Journal Square

Condominium”; and

WHEREAS, the Entity has a contract to purchase the Property from Journal Square Associates, LLC [JSA], and will close on or before _____, a date preceding the execution of this Financial Agreement; and

WHEREAS, the Project will consist of nine (9) master condominium units to be developed in three (3) phases; and

WHEREAS, the Entity plans to construct Phase III of the Project, which will consist of a 60-story building having approximately 600 market-rate residential rental units, approximately 14,000 square feet of leasing space and potential future commercial space, a parking garage containing approximately 245 parking spaces [collectively, the Phase III Project]; and

WHEREAS, upon substantial completion, the Project will be leased by the Entity to Journal Square Associates Operating Company for a term of 20 years; and

WHEREAS, on December 5, 2012, the Project received a site plan approval from the Planning Board; and

WHEREAS, on September 26, 2013, the Entity filed an Application with the City for a long term tax exemption for the Phase III Project; and

WHEREAS, by the adoption of Ordinance _____ on _____, 2013, 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 \$406,621, whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately \$648,000;
 2. the Entity has paid the City the sum of \$921,000, as an affordable housing contribution pursuant to Ordinance 03-112, and the Phase III Project will promote the appropriate development of affordable housing in the area;
 3. it is expected that the Project will create approximately 790 new construction jobs and 57 new permanent full time jobs;
 4. the Phase III Project should stabilize and contribute to the economic growth

of existing local business and to the creation of new businesses, which cater to the new occupants;

5. the Phase III Project will further the redevelopment objectives of the Journal Square 2060 Redevelopment Plan, which include the promotion of the principals of smart growth and transit village development;
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 Phase III Project and influencing the locational decisions of probable occupants:

1. the relative stability and predictability of the annual service charges will make the Phase III Project more attractive to investors and lenders needed to finance the Phase III 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 Phase III Project, which will attract occupants to the Phase III Project, insure the likelihood of stabilized rents to tenants and the success of the Phase III Project; and
3. have a positive impact on the surrounding area.

WHEREAS, on _____, 2013, the Entity entered into that certain Redevelopment Agreement [Redevelopment Agreement] with Jersey City Redevelopment Agency [JCRA] in accordance with the Local Redevelopment and Housing Law, as amended and supplemented, N.J.S.A. 40A:12A-1 et seq. [Redevelopment Law]; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-66, a municipality that has designated a redevelopment area may provide for tax abatement within that redevelopment area and for payment in lieu of taxes in accordance with the provisions of the Long Term Tax Exemption Law; provided, however, that the provisions of section 12 of the Long Term Tax Exemption Law (N.J.S.A. 40A:20-12) establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the term of the exemption period, and of section 13 of the Long Term Tax Exemption Law (N.J.S.A. 40A:20-13) permitting the relinquishment of status under that law, shall not apply to redevelopment projects financed with bonds; and

WHEREAS, pursuant to the Redevelopment Law and Redevelopment Area Bond Financing Law, as amended and supplemented, N.J.S.A. 40A:12A-64 et seq. [RAB Law], the Project is a redevelopment project in a redevelopment area, within the meaning of such law, and JCRA has agreed in the Redevelopment Agreement to issue bonds to finance the Project [Redevelopment

Bonds].

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 _____, 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. It is expressly understood and agreed that the Entity expressly relies upon this tax exemption, and the JCRA's issuance of Redevelopment Bonds, in undertaking the Phase III Project.

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. Base Annual Service Charge- That portion of the Annual Service Charge to be paid by the Entity to the City pursuant to Section 4.1(i) hereof. The Base Annual Service Charge shall not be pledged to pay Redevelopment Bonds.

vii. 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.

viii. County Annual Service Charge- That portion of the Annual Service Charge to be paid by the City to the County pursuant to Section 4.1(ii) hereof.

ix. 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.

x. 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.

xi. Entity - The term Entity within this Agreement shall mean Journal Square II 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.

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

xiii. 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.

xiv. 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, except that any land taxes paid on the interim surface parking area shall not be applied as a credit to the Annual Service Charge.

xv. 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.

xvi. 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.

xvii. Lease Up Period - Shall begin on the first day of the month following the issuance of the first Certificate of Occupancy (whether permanent or temporary) for the Phase III Project (Lease Up Date). During the Lease Up Period, the Entity shall pay the sum equal to the estimated Annual Service Charge divided by the number of units in the Phase III Project divided by 12 for each month at the rate of 25 units per month for the first month and an additional 25 units each

month thereafter through the 20th month after Lease Up Date, whether or not the units are actually occupied or generate revenue. The Lease Up Period for the Project expires 20 calendar months after the Lease Up Date.

xviii. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the greater of: (a) the amount of the total taxes levied against the Property, as allocated to the Phase III Project, in the last full tax year in which the area was subject to taxation. The parties agree that the amount of the total taxes levied against the Property in the last full tax year is \$406,620.76, of which \$119,334.35 shall be allocated to condominium unit 1 (based upon 540 units in the Phase I Project divided by 1,840 total expected units, which amount shall be the Minimum Annual Service Charge for purposes hereof), [\$154,692.68 shall be allocated to condominium unit 2 (based upon 700 expected units in the Phase III Project divided by 1,840 total expected units), and \$132,593.73 shall be allocated to condominium unit 3 (based upon 600 expected units in the Phase III Project divided by 1,840 total expected units)].

xix. 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.

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

xxi. Pledged Annual Service Charge - That portion of the Annual Service Charge to be paid by the Entity pursuant to Section 4.1 (iii) hereof. The Pledged Annual Service Charge shall be pledged to pay Redevelopment Bonds.

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

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

xxiv. 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 from Total Project Cost the actual costs incurred by the Entity and certified by an independent and qualified architect or engineer, which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or Federal law and any extraordinary costs incurred including the cost of demolishing structures, relocation or removal of public utilities, cost of relocating displaced residents or buildings and the clearing of title, if applicable.

xxv. Trust Indenture- That certain Indenture of Trust, Bond Agreement, or other similar form of agreement, as it may be amended and supplemented, to be entered into by and between the JCRA and the bond trustee, or other person acting in a similar capacity, with respect to the Redevelopment Bonds.

ARTICLE II - APPROVAL

Section 2.1 Approval of Tax Exemption

A. Improvements. The City hereby grants its approval for a tax exemption for master

condominium unit 1 (and if and when created, all condominium units subdivided therefrom), constituting 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 the Property.

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 the Phase III Project; 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 Phase 1 Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5.

Section 2.5 Ownership, Management and Control

The Entity represents that it is the owner of Master Condominium Unit 1 and, if and when created, the Entity will be the owner of condominium units subdivided therefrom, and has exclusive right to use the area for the interim surface parking lot, all comprising the Phase III Project is to be constructed. Upon construction, the Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and any Redevelopment Agreement.

Section 2.6 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 lease terms for 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 35 years from the date of the adoption of Ordinance ____ on _____, 2013, which approved the tax exemption or 30 years from the original date of Substantial Completion of the Phase III Project. The tax exemption shall only be effective during the period of usefulness of the Phase III Project and shall continue in force only while the Phase III Project is owned by an entity or association formed and operating under the Law.

ARTICLE IV - ANNUAL SERVICE CHARGE

Section 4.1 Annual Service Charge

In consideration of the tax exemption, the Entity shall make the following annual payments to the City (other than the County Service Charge, which shall be paid by the City to the County) for the services provided to the Phase III Project:

i. Base Annual Service Charge: The Entity shall pay to the City the Base Annual Service Charge in the amounts set forth on Schedule 1 attached hereto, as adjusted pursuant to the terms hereof. Year 1 of Schedule 1 shall be upon Substantial Completion of the Phase III Project.

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. Pledged Annual Service Charge: For so long as Redevelopment Bonds are outstanding and secured by the Pledged Annual Service charge, the Entity shall pay to the City (which payment shall be assigned by the City to the Trustee in accordance with the Trust Indenture to pay Redevelopment Bonds) the Pledged Annual Service Charge in the amounts set forth in Schedule 1 attached hereto. The Pledged Annual Service Charge for the Phase III Project shall be adjusted upon completion of each of the Phase II Project and Phase III Project to allocate a portion of such service charges to such projects. Such allocation to each phase shall be determined annually

on a pro rata basis by dividing the number of completed residential units in such phase by the number of completed residential units on the Property. The Pledged Annual Service Charge shall be adjusted, at the direction of the Entity, to reflect any redemption, refunding, prepayment or other change in the debt service requirements with respect to the Redevelopment Bonds. The Pledged Annual Service Charge shall terminate at such time as Redevelopment Bonds are no longer outstanding or no longer secured by the Pledged Annual Service Charge.

iv. The Minimum Annual Service Charge set forth in Section 1.2(xviii) shall be due beginning on the effective date of this Agreement. Beginning on the first day of the month after Substantial Completion, subject only to the Lease Up Period, the Minimum Annual Service Charge set forth in Section 1.2(xviii) shall be due in any year where it exceeds the Annual Service Charge. 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.

v. Up-Front Payment of Annual Service Charge. Within five (5) business days following the date of Substantial Completion, the Entity shall pay \$1,797,000.00 (One Million Seven Hundred Ninety Seven Thousand Dollars) [Up-Front Service Charges] to the City. The amount, if any, by which Land Taxes exceed the Annual Service Charge in any year shall be credited against the Prepaid Service Charges until such time as the Up-Front Service Charges are exhausted by such credits.

vi. Credit for Impositions on the Phase II Project and Phase III Project. Until Substantial Completion (as such term is defined in the Phase II Financial Agreement and Phase III Financial Agreement, respectively) of each of the Phase II Project and the Phase III Project, the Base Annual Service Charge payable hereunder shall be reduced by the amount of all land taxes, improvement taxes, service charges and other impositions on the property comprising such projects. Such credit shall be applied against the Base Annual Service Charge in the year in which such impositions are payable with respect to such projects.

Section 4.2 No Staged Adjustments

Pursuant to the RAB Law (N.J.S.A. 40A:12A-66), service charges payable hereunder shall not be adjusted in stages over the term of the tax exemption period in accordance with N.J.S.A.

40A:20-12.

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, in order to be entitled to a Land Tax credit against the Base 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 Base Annual Service Charge. Land Tax Payments shall not be credited against the Pledged 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 Base Annual Service Charge until the Land Taxes are paid in full. No credit will be applied against the Base Annual Service Charge for a partial payment of Land Taxes until they are paid in full. 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 ninety (90) 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. No administrative Fee shall be payable with respect to the Prepaid Service Charge.

Section 4.6 Affordable Housing Contribution and Remedies

A. **Contribution.** The Entity will pay the City the sum of \$921,000 or \$1,500 per

residential unit for 600 units (\$900,000), plus \$1.50 per square foot of commercial space (\$21,000) as a contribution for affordable housing. The sum shall be due and payable as follows: the entire contribution shall be paid on or before the effective date of the ordinance approving the tax exemption.

Section 4.7 Material Conditions

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

ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT

Section 5.1 Project Employment and Contracting Agreement

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

Section 5.2 Project Labor Agreement

The Entity shall execute a Project Labor Agreement as required by Ordinance 07-123 as it exists or as it may be amended from time to time.

ARTICLE VI - CERTIFICATE OF OCCUPANCY

Section 6.1 Certificate of Occupancy

It is understood and agreed that it shall be the obligation of the Entity to obtain all Certificates of Occupancy in a timely manner so as to complete construction substantially in accordance with the proposed construction schedule attached hereto as Exhibit 5.

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 (**DO NOT CONFUSE WITH 'MITIGATE'**) against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by the Entity.

ARTICLE VII - ANNUAL REPORTS

Section 7.1 Accounting System

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

Section 7.2 Periodic Reports

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the Entity's accounting basis that the Agreement shall continue in effect, the Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Phase 1 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, plus excess net profit, if any, in accordance with Article VII hereof. Excess Net Profit 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 Phase III 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 Phase III 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 Phase III 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 Phase III 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, an annual 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 to be calculated annually.

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 (xx) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

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

The date of termination or expiration of this Agreement or the sale of the Phase III Project 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 Phase III 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).

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.

Nothing herein shall prohibit the Entity from (i) subdividing condominium unit 1 of the Phase III Project into multiple units (or any such units into further units) at any one time or from time to time; or (ii) combining any condominium units on the Property with any other condominium units on the Property at any one time or from time to time. The City hereby approves and consents to any such subdivisions and combinations, and acknowledges and agrees that the Entity shall not be obligated to pay any fees hereunder in connection therewith.

Section 9.2 Transfer Application Fee

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

ARTICLE X - COMPLIANCE

Section 10.1 Operation

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

Section 10.2 Disclosure of Lobbyist Representative

During the term of this Agreement, the Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The Entity's failure to comply with the Executive Order or the Ordinance shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate the tax exemption.

ARTICLE XI - DEFAULT

Section 11.1 Default

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

Section 11.2 Cure Upon Default

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

reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

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

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

Section 11.3 Remedies Upon Default

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

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided in Article XI herein, but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against the Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure

action or any other specified remedy.

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

ARTICLE XII- TERMINATION

Section 12.1 Termination Upon Default of the Entity

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

Section 12.2 Voluntary Termination by the Entity

Except for so long as Redevelopment Bonds are outstanding and secured by the Pledged Annual Service Charge (during which period the Entity shall not relinquish its status as a tax exempt project), 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 Phase III 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.

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

ARTICLE XIV - WAIVER

Section 14.1 Waiver

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

ARTICLE XV - INDEMNIFICATION

Section 15.1 Defined

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

ARTICLE XVI- NOTICE

Section 16.1 Certified Mail

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

Section 16.2 Sent by City

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

Journal Square III Urban Renewal, LLC
c/o KRE Group
520 US Highway 22
P.O. Box 6872
Bridgewater, New Jersey 08807
Attn: David Kahan, Esq.

and

DeCotiis, FitzPatrick & Cole, LLP
Glenpointe Centre West
500 Frank W. Burr Blvd., Suite 31
Teaneck, NJ 07666
Attn: Jeffrey G. Kramer, Esq.

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

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

Mortgagee with a copy of any notice required to be sent to the Entity.

Section 16.3 Sent by Entity

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

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

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

ARTICLE XVII-SEVERABILITY

Section 17.1 Severability

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

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

ARTICLE XVIII - MISCELLANEOUS

Section 18.1 Construction

This Agreement shall be construed and enforced in accordance with the laws of the State of

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

Section 18.2 Conflicts

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

Section 18.3 Oral Representations

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

Section 18.4 Entire Document

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

Section 18.5 Good Faith

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

ARTICLE XIX - EXHIBITS

Section 19.1 Schedules

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

1. Annual Service Charges.

Section 19.2 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 Rental Schedule and Lease Terms;
8. Project Employment & Contracting Agreement and Project Labor Agreement;
9. Architect's Certification of Actual Construction Costs;
10. Entity's Deed.

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

WITNESS:

JOURNAL SQUARE III URBAN RENEWAL, LLC

ATTEST:

CITY OF JERSEY CITY

ROBERT BYRNE
CITY CLERK

ROBERT J. KAKOLESKI
ACTING BUSINESS ADMINISTRATOR