



**ORDINANCE FACT SHEET – NON-CONTRACTUAL**

This summary sheet is to be attached to the front of any ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

**Full Title of Ordinance**

**AN ORDINANCE SUPPLEMENTING CHAPTER 332 (VEHICLES AND TRAFFIC) ARTICLE III (PARKING, STANDING AND STOPPING) AMENDING SECTION 332-22 (PARKING PROHIBITED AT ALL TIMES) OF THE JERSEY CITY CODE DESIGNATING 240 FEET ON THE NORTH SIDE OF LAIDLAW AVENUE WEST OF SUMMIT AVENUE; 315 FEET ON THE SOUTH SIDE OF LAIDLAW AVENUE WEST OF SUMMIT AVENUE; 60 FEET ON THE WEST SIDE OF SUMMIT AVENUE NORTH OF LAIDLAW AVENUE AND 125 FEET ON THE WEST SIDE OF SUMMIT AVENUE NORTH OF JEFFERSON AVENUE AS NO PARKING ANY TIME**

**Initiator**

Department/Division	Administration	Engineering, Traffic and Transportation
Name/Title	Joao D'Souza at the request of Greg Kierce, Director of the Office of Emergency Management	Director of Traffic & Transportation
Phone/email	201.547.4470	JOAO@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

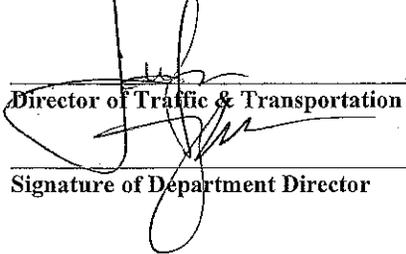
**Ordinance Purpose**

The "no parking" areas will accommodate emergency vehicle access near the OEM headquarters.

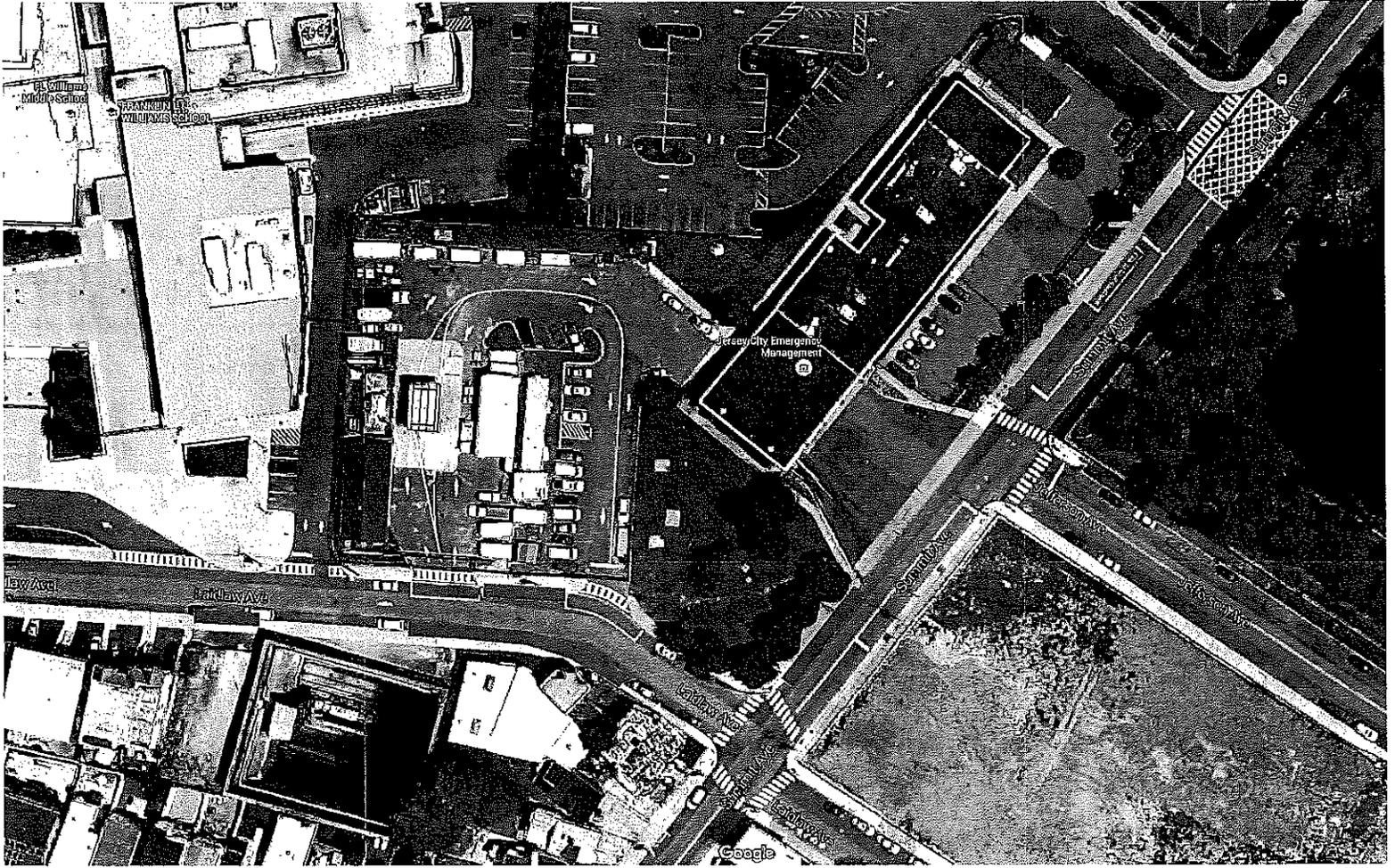
There have been a significant number of commuter vehicles parking in this area creating an issue for apparatus operators to enter and depart the facility. With the opening of the new middle school 3 on Summit Avenue this situation may only get worse.

This location is a fuel depot which is heavily utilized by various size FD apparatus and PD vehicles on a 24/7 basis. Frequently vehicle operators are challenged to maneuver around vehicles parked adjacent to the entrance/exit gates or across from the exit gate potentially delaying responses to emergency calls.

I certify that all the facts presented herein are accurate.

  
\_\_\_\_\_  
Director of Traffic & Transportation  
\_\_\_\_\_  
Signature of Department Director

6/16/16  
\_\_\_\_\_  
Date  
6/16/16  
\_\_\_\_\_  
Date



City Clerk File No. Ord. 16.117

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 16.117

TITLE:

**ORDINANCE APPROVING A 25 YEAR TAX EXEMPTION FOR A MARKET-RATE RESIDENTIAL PROJECT TO BE CONSTRUCTED BY BERGEN ACADEMY URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.**

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

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

**WHEREAS**, the Entity is owner of certain property known as Block 13402, Lots 17, 18 & 19, on the City's Official Tax map, more commonly known by the street address of 880 Bergen Avenue, and more specifically described by metes and bounds in the application [Property]; and

**WHEREAS**, the Property is located within the Journal Square 2060 Redevelopment Plan Area as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g); and

**WHEREAS**, the project received a site plan approval from the Planning Board on January 12, 2016; and

**WHEREAS**, the Entity has applied for a twenty-five (25) year-long term tax exemption to rehabilitate a ten (10) story office building into a market rate residential Project to contain approximately fifty-five (55) market-rate residential rental units, and 3,500 square feet of ground floor retail/commercial space [Project]; and

**WHEREAS**, the Property is located within Tier IV of the Jersey City Tax Abatement Policy Map; and Tier IV allows tax exemptions for a period of up to thirty (30) years; and

**WHEREAS**, the Entity has requested a term of the earlier of thirty (30) years from the effective date of the Ordinance approving the exemption, or twenty-five (25) years from the date that the Project is deemed substantially complete; and

**WHEREAS**, the Entity proposes an Annual Service Charge based upon eleven (11%) percent of Gross Revenue; in addition, the Applicant would pay an annual fee to Hudson County based upon five (5%) percent of the Annual Service Charge, and an administrative fee to the City of two (2%) percent of the Annual Service Charge; and

**WHEREAS**, the Entity has also agreed to:

1. pay the greater of (i) the Minimum Annual Service Charge as defined in the Financial Agreement; or (ii) 11% of Annual Gross Revenue each year, which sum is estimated to be \$142,728, and which shall be subject to statutory staged increases over the term of the tax exemption; and
2. pay an annual sum equal to 2% of each prior year's Annual Service Charge as an Administrative Fee or \$2,855;

**ORDINANCE APPROVING A 25 YEAR TAX EXEMPTION FOR A MARKET-RATE RESIDENTIAL PROJECT TO BE CONSTRUCTED BY BERGEN ACADEMY URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.**

- 3. provide employment and other economic opportunities for City residents and businesses;
- 4. pay to City for remittance to Hudson County, an amount equal to 5% of the Annual Service Charge upon receipt of that charge or \$7,136;
- 5. provide a contribution to the City's Affordable Housing Trust Fund, pursuant to Ordinance 03-112, in the amount of \$87,750. This payment is nonrefundable and nontransferable and shall be forfeited by the Entity should either party terminate the tax exemption prior to the end of the herein term; and
- 6. execute a Project Employment & Contracting Agreement; and

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

- 1. the current real estate taxes generate revenue of only \$81,387, whereas, the Annual Service Charge as estimated, will generate revenue of more than \$142,728 to the City and an additional sum of approximately \$7,136 to Hudson County;
- 2. it is expected that the Project will create approximately one hundred forty (140) jobs during construction and three (3) new permanent jobs after construction;
- 3. the Project will stabilize and contribute to the economic growth of businesses in the surrounding area;
- 4. the Project will further the overall redevelopment objectives of the Journal Square 2060 Redevelopment Plan area;
- 5. the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

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

- A. The application of Bergen Academy Urban Renewal, LLC, an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. a copy of which is on file in the office of the City Clerk, for Block 13402, Lots 17, 18 & 19, more commonly known by the street address of 880 Bergen Avenue, more specifically described by metes and bounds in the application, is hereby approved.
- B. The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement and a Project Employment & Contracting Agreement. The Financial Agreement shall include at a minimum the following terms and conditions:

ORDINANCE APPROVING A 25 YEAR TAX EXEMPTION FOR A MARKET-RATE RESIDENTIAL PROJECT TO BE CONSTRUCTED BY BERGEN ACADEMY URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.

1. Term: the earlier of 30 years from the adoption of the within Ordinance or 25 years from the date the project is Substantially Complete;
2. Annual Service Charge: each year:
  - (a) the Minimum Annual Service Charge equal to \$81,387, but upon Project Completion, whether or not the Project is occupied the sum of \$142,728; or
  - (b) 11% of Annual Gross Revenue, estimated at \$142,728, which shall be subject to statutory increases during the term of the tax exemption;
3. Administrative Fee: 2% of the prior year's Annual Service Charge or \$2,855;
4. County Payment: an additional 5% of the Annual Service Charge for remittance by the City to Hudson County or \$7,136;
5. Affordable Housing Trust Fund: \$1,500 per unit or \$82,500; \$1.50 per square foot x 3,500 square feet of commercial space or \$5,250, for a total of \$87,750. Such funds are non-refundable and non-transferrable in the event of a termination or expiration of the Financial Agreement;
6. Staged Adjustments:
  - (a) Stage One: years 1-9;
  - (b) Stage Two: years 10-13;
  - (c) Stage Three: years 14-17;
  - (d) Stage Four: years 18-21;
  - (e) Final Stage: Beginning on the 1st day of the 22nd year through the date the tax exemption expires, an amount equal to the greater of the Annual Service Charge or 80% of the amount of the taxes otherwise due.
7. Project Employment & Contracting Agreement: an obligation to execute a Project Employment and Contracting Agreement to insure employment and other economic benefits to City residents and businesses;
8. Project Labor Agreement: Entity certified that its construction costs are less than \$25 million. In the event a construction cost audit or report indicates construction costs of more than \$25 million, then the Entity shall execute a Project Labor Agreement and be required to pay the damages as set forth in Section 304-37(3) of the Municipal Code.
9. The initial installment of the Affordable Housing Trust Fund contribution payment shall be due on execution of the Financial Agreement, but in no event later than 90 days of the adoption of the ordinance. Interest shall accrue on such payments as of the 91<sup>st</sup> day at the same rate as the City charges for unpaid real estate taxes;
10. The actual date of execution of the tax exemption agreement shall not affect, alter or amend the Entity's obligation to make payments according to the intervals set forth in Section 304-28 of the Municipal Code and the tax exemption agreement. Should the Entity fail to make timely payments, interest shall begin to accrue at the rate set forth in the financial agreement.

ORDINANCE APPROVING A 25 YEAR TAX EXEMPTION FOR A MARKET-RATE RESIDENTIAL PROJECT TO BE CONSTRUCTED BY BERGEN ACADEMY URBAN RENEWAL, LLC, AN URBAN RENEWAL ENTITY, PURSUANT TO THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ.

- 11. The Financial Agreement shall be executed by the Entity no later than 90 days following adoption of the within Ordinance. Failure to comply shall result in a repeal of the herein Ordinance and the tax exemption will be voided.
  - 12. The Ordinance will be rescinded if the closing of the sale of the property and transfer of title from the seller to the Entity does not take place within ninety (90) days of the date of adoption of the herein Ordinance, unless otherwise extended by the City.
  - 13. This Ordinance will sunset and the Tax Exemption will terminate unless construction of the Project begins within two (2) years of the adoption of the within Ordinance.
- C. The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Chief Financial Officer of the county and to the County Counsel, for information purposes, within ten (10) calendar days following the later of the effective date of an ordinance following its final adoption by the governing body approving the tax exemption or the execution of the financial agreement by the urban renewal entity.
  - D. The application, as amended, is on file with the office of the City Clerk. The Financial Agreement and Project Employment and Contracting Agreement shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.
  - E. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
  - F. This ordinance shall be part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
  - G. This ordinance shall take effect at the time and in the manner provided by law.
  - H. The City Clerk and Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

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

*JM/he*  
7/14/16

APPROVED AS TO LEGAL FORM

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

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

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

Certification Required

Not Required

TIER 4 - FINANCIAL AGREEMENT (30 YEAR)  
Rev. 7-14-16  
Long Term Tax Exemption  
N.J.S.A. 40A:20-1, et seq.  
Residential Rental or Residential Condominium

Re: 880 Bergen Avenue  
Approximately \_\_\_\_\_ Acres  
Block 13402, Lots 17, 18 & 19  
Journal Square 2060 Redevelopment Plan

**PREAMBLE**

**THIS FINANCIAL AGREEMENT**, [Agreement] is made the \_\_\_ day of \_\_\_\_\_, 2016, by and between **BERGEN ACADEMY 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 Amerestate Holdings, LLC, 35 Kensington Avenue, P.O. Box 6828, Jersey City, NJ 07306-6828 [Entity], and the **CITY OF JERSEY CITY**, a Municipal Corporation of the State of New Jersey, having its principal office at 280 Grove Street, Jersey City, New Jersey 07302 [City].

**RECITALS**

**WITNESSETH:**

**WHEREAS**, the Entity is the Owner pursuant to Deed dated July 7, 2015, of certain property designated as Block 13402, Lots 17, 18 and 19, more commonly known by the street address of 880 Bergen Avenue, Jersey City, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement [Property]; and

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

**WHEREAS**, the Entity plans to rehabilitate a ten (10) story office building into a market rate residential project to contain approximately fifty-five (55) market-rate residential rental units, and 3,500 square feet of ground floor retail/commercial space [Project]; and

**WHEREAS**, on January 12, 2016, the Project received site plan approval from the Planning Board; and

**WHEREAS**, on May 27, 2016, as amended on June 29, 2016, the Entity filed an Application with the City for a long term tax exemption for the Project; and

**WHEREAS**, by the adoption of Ordinance \_\_\_\_\_ on \_\_\_\_\_, 2016, 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 \$81,387, whereas, the Annual Service charge as estimated, will generate revenue to the City of approximately \$142,728;
2. as required by ordinance 13-088, the Entity shall pay the City the sum of \$29,167 on or before the effective date of the ordinance approving the Financial Agreement, and will pay the balance of \$58,333 as an affordable housing contribution as required by the ordinance;
3. it is expected that the Project will create approximately 140 new construction jobs and 3 new permanent full time jobs;
4. the project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants;
5. the Project will further the objectives of the Journal Square 2060 Redevelopment Plan, and will include the remediation of vacant property;
6. the City's Impact Analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

**ARTICLE I - GENERAL PROVISIONS**

**Section 1.1 Governing Law**

This Agreement shall be governed by the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., Executive Order of the Mayor 2015-007, Disclosure of Lobbyist Status, Ordinance 02-075, and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement. It being expressly understood and agreed that the City expressly relies upon the facts, data, and representations contained in the Application, attached hereto as Exhibit 3, in granting this tax exemption.

**Section 1.2 General Definitions**

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

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

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

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

and insurance charges, whether paid for by the landlord, tenant or a third party.

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

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

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

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

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

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

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

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

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

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

xiv. Law - Law shall refer to the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1, et seq.; Executive Order of the Mayor 15-007, relating to long term tax exemption, as it may be supplemented; Ordinance 02-075 requiring Disclosure of Lobbyist Status and Ordinance \_\_\_\_\_, which authorized the execution of this Agreement and all other relevant Federal, State or City statutes, ordinances, resolutions, rules and regulations.

xv. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be (a) until Substantial Completion the amount of the total taxes levied against all real property in the area covered by the Project in the last full tax year in which the area was subject to taxation, which amount the parties agree is \$81,387; and (b) upon Substantial Completion, the sum of \$142,728 per year, which sum is equal to the estimated Annual Service Charge.

Following Substantial Completion, the Minimum Annual Service Charge set forth in subsection (b) shall be paid in each year in which the Annual Service Charge, calculated pursuant to N.J.S.A. 40A:20-12 or this Agreement, would be less than the Minimum Annual Service Charge.

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

(1) there shall be included in expenses: (a) all Annual Service charges paid pursuant to N.J.S.A. 40A:20-12; (b) all annual payments to the City of excess profits pursuant to N.J.S.A.

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

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

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

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

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

xx. Total Project Cost - The total cost of constructing the Project through the date a Certificate(s) of Occupancy is issued for the entire Project, which categories of cost are set forth in N.J.S.A. 40A:20-3(h). There shall be excluded from Total Project Cost the actual costs incurred by the Entity and certified by an independent and qualified architect or engineer, which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or Federal law and any extraordinary costs incurred including the cost of demolishing structures, relocation or removal of public utilities, cost of relocating displaced residents or buildings and the clearing of title. If the Service Charge is a

percentage of Total Project Cost, then the Entity agrees that final Total Project Cost shall not be less than its estimated Total Project Cost.

## **ARTICLE II - APPROVAL**

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

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: Block 13402, Lots 17, 18 and 19, more commonly known by the street address 880 Bergen Avenue, Jersey City, and described by metes and bounds in Exhibit 1 attached hereto.

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

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

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

Entity represents that it will rehabilitate a ten (10)-story office building into a market rate residential Project to contain approximately fifty-five (55) market-rate residential rental units, and 3,500 square feet of ground floor retail/commercial space; all of which is specifically described in the Application attached hereto as Exhibit 3.

### **Section 2.4 Construction Schedule**

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

### **Section 2.5 Ownership, Management and Control**

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

**Section 2.6 Financial Plan**

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

**Section 2.7 Good Faith Estimate of Initial Rents**

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

**ARTICLE III - DURATION OF AGREEMENT**

**Section 3.1 Term**

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of 30 years from the date of the adoption of Ordinance \_\_\_\_ on \_\_\_\_\_, 2016, which approved the tax exemption or 25 years from the original date of Substantial Completion of the Project. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the Project is owned by a corporation or association formed and operating under the Law.

**ARTICLE IV - ANNUAL SERVICE CHARGE**

**Section 4.1 Annual Service Charge**

In consideration of the tax exemption, the Entity shall make the following annual payments to the City for services provided to the Project:

- i. City Service Charge: an amount equal to the greater of: the Minimum Annual Service Charge or an Annual Service Charge equal to 10% of the Annual Gross Revenue. The Annual Service Charge shall be billed initially based upon the Entity's estimates of Annual Gross Revenue, attached hereto as Exhibit 6. Thereafter, the Annual Service Charge shall be adjusted in accordance with this Agreement.
- ii. County Service Charge: an amount equal to 5% of the Municipal Annual Service Charge shall be paid to the City and remitted by the City to the County.
- iii. The Minimum Annual Service Charge pursuant to Section 1.2xv(a) shall be due

beginning on the effective date of this Agreement. The Minimum Annual Service Charge pursuant to Section 1.2xv(b) shall be due upon Substantial Completion of the Project. The City Service Charge and the County Annual Service Charge shall be due on the first day of the month following the Substantial Completion of the Project. In the event the Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid.

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

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

- i. Stage One: From the 1st day of the month following Substantial Completion until the last day of the 6th year, the Annual Service Charge shall be \_\_\_\_% of Annual Gross Revenue;
- ii. Stage Two: Beginning on the 1<sup>st</sup> day of the 7th year following Substantial Completion until the last day of the 9th year, an amount equal to the greater of the Annual Service Charge or 20% of the amount of the taxes otherwise due on the assessed value of the land and Improvements;
- iii. Stage Three: Beginning on the 1st day of the 10th year following the Substantial Completion until the last day of the 14th year, an amount equal to the greater of the Annual Service Charge or 40% of the amount of the taxes otherwise due on the assessed value of the land and Improvements;
- iv. Stage Four: Beginning on the 1st day of the 15th year following Substantial Completion until the last day of the 18th year, an amount equal to the greater of the Annual Service Charge or 60% of the amount of the taxes otherwise due on the assessed value of the land and Improvements;
- v. Final Stage: Beginning on the 1st day of the 19th year following Substantial Completion through the date the tax exemption expires, an amount equal to the greater of the Annual Service Charge or 80% of the amount of the taxes otherwise due on the assessed value of the land and Improvements.

### **Section 4.3 Land Tax**

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

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

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

### **Section 4.5 Administrative Fee**

The Entity shall also pay an annual Administrative Fee to the City in addition to the Annual Service Charge and Land Tax levy. The Administrative Fee shall be calculated as one (1%) percent of each prior year's Annual Service Charge. This fee shall be payable and due on or before December 31st of each year, and collected in the same manner as the Annual Service Charge.

### **Section 4.6 Affordable Housing Contribution and Remedies**

A. **Contribution.** The Entity will pay the City the sum of \$87,750 or \$1,500 per unit x 55 units or \$82,500; and \$1.50 x 3,500 square foot of commercial space or \$5,250, as a

contribution. The sum shall be due and payable as follows:

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

#### **Section 4.7 Material Conditions**

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

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

#### **Section 5.1 Project Employment and Contracting Agreement**

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

#### **Section 5.2 Project Labor Agreement**

If the construction costs exceed \$25 million, then the Entity must execute a Project Labor Agreement as required by Section 304-33 of the Jersey City Municipal Code. The Entity asserts that the construction costs will not exceed \$25 million and therefore a Project Labor Agreement (PLA) is not required. Notwithstanding construction costs under \$25 million, the Entity must comply with Chapter 304-34(C) of the Municipal Code and provide certification of its construction costs. In the event that the construction costs do exceed the \$25 million threshold, the entity shall be required to pay the damages as set forth in Chapter 304-37(3) of the Municipal Code.

## ARTICLE VI - CERTIFICATE OF OCCUPANCY

### **Section 6.1 Certificate of Occupancy**

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

### **Section 6.2 Filing of Certificate of Occupancy**

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

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

### **Section 6.3 Construction Permits**

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

## ARTICLE VII - ANNUAL REPORTS

### **Section 7.1 Accounting System**

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

### **Section 7.2 Periodic Reports**

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the Entity's accounting basis that the Agreement shall continue in effect, the Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the purchase or

construction of the Project and such details as may relate to the financial affairs of the Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement. The Report shall clearly identify and calculate the Net Profit for the Entity during the previous year, the excess of which shall be paid to the City each year an excess profit is generated.

B. Total Project Cost Audit: Within ninety (90) days after Substantial Completion of the Project, the Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, including but not limited to an audit of actual construction costs as certified by the Project architect.

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

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

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

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

## **ARTICLE VIII- LIMITATION OF PROFITS AND RESERVES**

### **Section 8.1 Limitation of Profits and Reserves**

During the period of tax exemption as provided herein, the Entity shall be subject to a limitation of its profits pursuant to the provisions of N.J.S.A. 40A:20-15.

The Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount equal to five (5%) percent of the Gross Revenue of the Entity for the last full fiscal year preceding the year and may retain such part of the Excess Net Profits as is necessary to eliminate a deficiency in that reserve, as provided in N.J.S.A. 40A:20-15. The reserve is to be non-cumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of five (5%) percent of the preceding year's Gross Revenue.

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

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

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

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

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

### **Section 9.1 Approval of Sale**

Any sale or transfer of the Project, shall be void unless approved in advance by Ordinance of the Municipal Council. It is understood and agreed that the City, on written application by the Entity, will not unreasonably withhold its consent to a sale of the Project and the transfer of this Agreement provided 1) the new Entity does not own any other Project subject to long term tax exemption at the time of transfer; 2) the new Entity is formed and eligible to operate under the Law; 3) the Entity is not then in default of this Agreement or the Law; 4) the Entity's obligations under this Agreement are fully assumed by the new Entity; 5) the Entity pays in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d); and 6) as to projects that are not Substantially Complete, the Entity is comprised of principals possessing substantially the same or better financial qualifications and credit worthiness as the Entity.

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

#### **Section 9.2 Transfer Application Fee**

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

### **ARTICLE X - COMPLIANCE**

#### **Section 10.1 Operation**

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

## **Section 10.2 Disclosure of Lobbyist Representative**

During the term of this Agreement, the Entity must comply with Executive Order 2015-007, 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 thirty (30) 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 thirty (30) 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, or a sale of the Project occurs without the consent of the City, 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 herein, but shall allow the City to proceed immediately to terminate the Agreement as provided herein. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against the Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

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

## **ARTICLE XII- TERMINATION**

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

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

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

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

## **Section 12.3 Final Accounting**

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

## **Section 12.4 Conventional Taxes**

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

## **ARTICLE XIII - DISPUTE RESOLUTION**

### **Section 13.1 Arbitration**

In the event of a breach of the within Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court of New Jersey by an appropriate proceeding, to

settle and resolve the dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. The cost for the arbitration shall be borne by the Entity. The parties agree that the Entity may not file an action in Superior Court or with the Arbitration Association unless the Entity has first paid in full all charges defined in Section 4.7 as Material Conditions.

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

In calculating the amount of the Staged Adjustments that is, taxes otherwise due, pursuant to Section 4.2 and N.J.S.A. 40A:20-12, either party may file an appeal of the conventional assessment to determine the value of land and improvements.

## **ARTICLE XIV - WAIVER**

### **Section 14.1 Waiver**

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

## **ARTICLE XV - INDEMNIFICATION**

### **Section 15.1 Defined**

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

## ARTICLE XVI- NOTICE

### **Section 16.1 Certified Mail**

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

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

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

Bergen Academy Urban Renewal, LLC  
c/o Amerestate Holdings, LLC  
35 Kensington Avenue  
P.O. Box 6828  
Jersey City, NJ 07306  
Attn:

and

DeCotiis, FitzPatrick & Cole, LLP  
Glenpointe Centre West  
500 Frank W. Burr Blvd.  
Teaneck, NJ 07666  
Attn: Matthew C. Karrenberg, Esq.

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

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

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

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

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

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

## ARTICLE XVII-SEVERABILITY

### **Section 17.1 Severability**

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

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

## **ARTICLE XVIII - MISCELLANEOUS**

### **Section 18.1 Construction**

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

### **Section 18.2 Conflicts**

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

### **Section 18.3 Oral Representations**

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

and delivered to each party.

**Section 18.4 Entire Document**

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

**Section 18.5 Good Faith**

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

**ARTICLE XIX - EXHIBITS**

**Section 19 Exhibits**

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

1. Metes and Bounds description of the Project;
2. Ordinance of the City authorizing the execution of this Agreement;
3. The Application with Exhibits;
4. Certificate of the Entity;
5. Estimated Construction Schedule;
6. The Financial Plan for the undertaking of the Project;
7. Good Faith Estimate of Initial Rents;
8. Project Employment and Contracting Agreement;
9. Architect's Certification of Actual Construction Costs.
10. Entity's Deed.

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

**WITNESS:**

**BERGEN ACADEMY URBAN RENEWAL, LLC**

\_\_\_\_\_

\_\_\_\_\_

**ATTEST:**

**CITY OF JERSEY CITY**

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

\_\_\_\_\_  
**ROBERT KAKOLESKI**  
**ACTING BUSINESS ADMINISTRATOR**

New & Revised as of February, 2016

(Including Construction Jobs, for Projects with no PLA)

To accord with new Chapter 304 (Croson), only pages 1 through 7 have been amended.

## PROJECT EMPLOYMENT & CONTRACTING AGREEMENT

This Project Employment & Contracting Agreement is made as of the \_\_\_ day of \_\_\_\_, 2016, between the **CITY OF JERSEY CITY** [City] having its principal office at 280 Grove Street, Jersey City, NJ 07302, and **BERGEN ACADEMY URBAN RENEWAL, LLC** [Recipient], having its principal office at c/o Amerestate Holdings, LLC, 35 Kensington Avenue, P.O. Box 6828, Jersey City, NJ 07306-6828.

### **I. Definitions:**

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

1. "City" means the Business Administrator of the City of Jersey City, or his designee, including any person or entity which enters into an agreement with the City to implement, in whole or in part, this agreement.
2. "Contractor" means any party performing or offering to perform a prime contract on behalf of the Recipient.
3. Construction Contract means any agreement for the erection, repair, alteration or demolition of any building, structure, bridge, roadway or other improvement on a Project Site.
4. "DEO" means the Division of Economic Opportunity under the Department of Administration, located at 280 Grove Street. DEO is in charge of Project Employment & Contracting coordination and monitoring on projects receiving abatements.
5. "Economic Incentive" means a tax abatement or tax exemption for a property or project which requires approval of the Municipal Council.
6. "Employment" includes positions created as a result of internal promotions, terminations, or expansions within the Recipient's work force which are to be filled by new employees. However, positions filled through promotion from within the Recipient's existing work force are not covered positions under this agreement.
7. Jersey City Employment and Training Corporation or "JCEPT" means the non-profit quasi public Entity with whom the City has an operating agreement to undertake certain employment services.
8. "Local Business" means a bona fide business located in Jersey City.
9. "Minority" means a person who is defined as such under federal or state law.

10. "Minority or Woman Owned Local Business" means a bona fide business located in Jersey City which is fifty-one (51%) percent or more owned and controlled by either a Minority or woman.
11. "Permanent Jobs" mean newly created long term salaried positions, whether permanent, temporary, part time or seasonal.
12. "Project or Project Site" means the specific work location or locations specified in the contract.
13. The "Project Employment & Contracting Coordinator" or "Coordinator" is the employee in the Department of Administration, who is in charge of overseeing compliance of Project Employment & Contracting Agreements. Contractors and developers engaged in projects covered by Project Employment & Contracting Agreements will direct inquiries to the Coordinator. The Coordinator may incorporate referrals from JCEPT or its One-Stop Career Center if the City's agreement with JCEPT so provides.
14. The "Project Employment & Contracting Monitor" or "Monitor" is the employee in the Department of Administration who is in charge of monitoring the site, collecting the reports and documentation, and other day-to-day Project Employment & Contracting administration as stipulated by this agreement.
15. The "Receipt's Officer" is an employee of the Recipient who is designated by the Recipient to make sure the Recipient is in compliance with the Recipient's Project Employment & Contracting agreement.
16. "Recipient" means any individual, partnership, association, organization, corporation or other entity, whether public or private, or for profit or non-profit, or agent thereof, which receives an Economic Incentive also referred to as a developer.
17. "The Registry" or "Jersey City Employment Registry" means a data base maintained by the City or its designee, of Jersey City residents seeking employment and Local Businesses, including Minority or Woman Owned Local Businesses, seeking contracts.
18. "Subcontract" means a binding legal relationship involving performance of a contract that is part of a prime contract.
19. "Subcontractor" means a third party that is engaged by the prime Contractor to perform under a subcontract all or part of the work included in an original contract.
20. "Substantial Completion" means the determination by the City that the Project, in whole or in part, is ready for the use intended, which ordinarily shall mean the date on which the Project receives, or is eligible to receive any Certificate of Occupancy for any portion of the Project.

## **II. Purpose: Construction Jobs, Business Contracting, Permanent Jobs**

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

Because this project is not subject to the terms of a Project Labor Agreement during construction, this agreement shall apply to all Construction Jobs, Business Contracts and non-construction Permanent Jobs. Recipients are also required to notify any commercial tenants of employment services available from the City.

## **III. Recipient Designee:**

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

The Recipient shall send a letter designating its "Project Employment & Contracting Compliance Officer" to the Project Employment & Contracting Coordinator prior to any preconstruction meetings. An example of this letter can be found in Exhibit A. This Officer should also be present for all preconstruction meetings.

The Recipient should send a letter regarding the "Project Employment & Contracting Compliance Officer" to the employees of the Recipient's company. An example of this letter can be found in Exhibit B.

## **IV. Term:**

This agreement shall be in effect for a period co-terminus with the effective period of the tax exemption [the Economic Incentive]. Thus, it will commence on the date the City Council adopted Ordinance \_\_\_\_\_, approving the tax exemption and terminate the earlier of 30 years from the date of the adoption of that Ordinance or 25 years from the date of Substantial Completion of the Project.

## **V. Required Goals:**

In the event the Recipient is able to demonstrate that its work force already meets the goals set forth below or is able to meet such goals during the term of this agreement, the

Recipient shall be required to submit the periodic certified manning and certified payroll reports described below to confirm ongoing compliance. The goals are as follows:

1. **Employment (Construction and Permanent Jobs):** The Recipient shall make a Good Faith effort to achieve the goal of a work force representing twenty (20%) percent of labor hours who are Minorities and who are women.
2. **Business Contracting:** The Recipient shall make a Good Faith effort to achieve the goal of awarding ten (10%) percent of the dollar amount of its contracts to Minority or Women Owned Businesses.

**VI. Construction Jobs Procedure:**

1. **Construction Jobs:** Recipient shall comply with all of the following conditions:

A. Initial Contracting Report

- i) The Recipient shall submit the initial contracting report. A letter must be forwarded with requests for quotation or bid to the Office of Diversity and Inclusion for minority contractors or vendors for any construction or building operating goods, services and sub-contracting opportunities. An example of this letter is given in Exhibit C.
- ii) The Recipient shall contact those businesses to submit bids. An example of this letter can be found in Exhibit D.

B. Initial Manning Report:

- i) Prior to the commencement of their work on the Project, the Recipient shall obtain from all Contractors/Subcontractors an Initial Manning Report.
- ii) The Initial Manning Report should contain an estimate of the total hours in each construction trade or craft and the number of hours to be worked, including a list of the number of minority residents and women that will work in each trade or craft, including the work hours to be performed by such employees of any and all Contractors and Subcontractors. Attached hereto as Exhibit \_\_\_ is the Recipient's Initial Manning Report.
- iii) The Initial Manning Report shall be filed with the Project Employment and Contracting Monitor, who must accept the Report prior to the Recipient entering into any construction contract. An example of this acceptance letter is given in Exhibit \_\_\_\_.

C. Compliance Statement

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

D. Monthly Reports:

Manning Report (after construction commences)

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

Certified Payroll Report

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

E. Annual Equal Employment Opportunity Reports

Prior to commencement of work on the Project, the Recipient will submit copies of the most recent Local Union Report (EEO-3) and Apprenticeship Information Report (EEO-2) which are required to be filed with the US Commission of Equal Employment Opportunity Commission by the collective bargaining unit and annually thereafter.

F. Other Reports

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

G. Records Access

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

H. Work Site Access For Monitor

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

**VII. Permanent Jobs Procedures:**

1. **Permanent Jobs:** Recipient shall comply with all of the following conditions:

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

- i) whether subcontractors will be used in the hiring process.
- ii) the specific types of jobs that need to be filled.
- iii) the qualifications needed for these particular jobs.
- iv) possible training programs offered by the permanent employer.
- v) the Recipient's goals and how it plans to meet these goals.
- vi) any other issues which need to be addressed.

B. Subcontractor Notification -- If the Recipient decides to subcontract any portion or all of its permanent workforce, then the Recipient must receive a signed acknowledgment from the subcontracting party that it will abide by the Project Employment & Contracting Agreement before said subcontractor begins staffing permanent employees. The Recipient must forward a copy of the signed acknowledgment to the Project Employment

& Contracting Monitor. An example of this signed acknowledgment can be found in Appendix 3.

- C. Subcontractor Pre-Hiring Job Awareness Meeting -- Each subcontractor hired to staff permanent job positions must appoint a Project Employment & Contracting Officer to meet with the head of the Registry to discuss the same issues presented above in VI 1.A.(i)-(vi) and notify the City.
- D. Subcontractors of Subcontractors--Subcontractors of subcontractors are subject to the same requirements for the initial subcontractors.
- E. Documentation of Hiring Plan--Once the Pre-Hiring Job Awareness Meeting has taken place, the Recipient must put together a document with goals and totals for future permanent employment needs. This plan should summarize all that was discussed in the Pre-Hiring Awareness Meeting, list estimates for manpower needs, set residential and minority employment goals commensurate with the Project Employment & Contracting Agreement, and show how the Recipient plans to meet these goals. An example of this plan is found in Appendix 4.
- F. Pre-Hiring Notification: At least ten (10) working days prior to advertising for any employees, the Recipient or the Recipient's subcontractor shall provide the DEO and the JCEPT with a written notice, which shall state the job title, job description and minimum qualifications, rate of pay, hours of work and the hiring date for each position to be filled, in qualitative and objective terms which will enable the referral of qualified applicants to the Recipient.
- G. Advertisement: At the request of the City, or because the City does not have qualified applicants to refer to the Recipient, the Recipient will place an advertisement for the jobs in a newspaper which is regularly published in Jersey City. The Recipient must furnish the DEO with a copy of this advertisement.
- H. Pre-Hiring Interview: The Recipient shall interview any qualified applicants referred to it pursuant to the agreement. In the event advertisement is required, the Recipient agrees to interview any qualified persons responding to the advertisement.
- I. Monthly Employment Reports: The Recipient will submit written employment reports to the Project Employment & Contracting Monitor in the form to be provided by the City. The report will be submitted on the 1<sup>st</sup> day of every month. It will describe each job and state whether the job was filled or held by a City resident, minority resident or woman resident and date of hire. The report will explain in writing the reasons why any qualified referred applicant (or in the event advertisement is required, any qualified person responding to the advertisement) was not hired and the reason therefore. The form of this report shall be in substantially the form found in Appendix 5, subject to such revision as the City deems appropriate and reasonable. Monthly reports may be extended to semi-annually reports once the initial workforce is hired.

- J. Record Access: The Recipient shall provide the City with reasonable access to all files and records including payroll and personnel information reasonably necessary to confirm the accuracy of the information set forth in the semi-annual reports.
- K. Work Place Access: The Recipient shall provide the City with reasonable access to the site to physically monitor the work site to verify the accuracy of the information set forth in the any reports.
- L. Other Reports, Documents: In addition to the above reports, the Recipient shall furnish such reports or other documents that the City may request from time to time in order to implement the purposes of this agreement.
- M. Incorporation of Agreement: The Recipient shall incorporate the provisions of this Agreement in all contracts, agreements and purchase orders for labor with any service, maintenance, security or management agent or Contractor engaged by the Recipient whose personnel will be assigned to the Recipient project.

**VIII. Good Faith Defined. Business Contracts**

- A. Good Faith shall mean compliance with all of the following conditions:
  - i) Solicitation of Businesses:
    - a) One month before the solicitation for any goods or services, the Recipient must forward a letter with a description of the goods or services to the Project Employment and Contracting Coordinator;
    - b) The Recipient shall provide the City with a written Purchasing Report every month. The form of this report shall be in substantially the form found in Appendix 6.
    - c) Pre-Hiring Notification: At least ten (10) working days prior to advertising for any employees, the Recipient or the Recipient's subcontractor shall provide the DEO and the JCEPT with a written notice, which shall state the job title, job description and minimum qualifications, rate of pay, hours of work and the hiring date for each position to be filled, in qualitative and objective terms which will enable the referral of qualified applicants to the Recipient.
    - d) Advertisement: At the request of the City, or because the City does not have qualified applicants to refer to the Recipient, the Recipient will place an advertisement for the jobs in a newspaper which is regularly published in Jersey City. The Recipient must furnish the DEO with a copy of this advertisement.
    - e) Pre-Hiring Interview: The Recipient shall interview any qualified applicants referred to it pursuant to the agreement. In the event advertisement is required, the Recipient agrees to interview any qualified persons responding to the advertisement.

- f) Monthly Employment Reports: The Recipient will submit written employment reports to the Project Employment & Contracting Monitor in the form to be provided by the City. The report will be submitted on the 1<sup>st</sup> day of every month. It will describe each job and state whether the job was filled or held by a City resident, minority resident or woman resident and date of hire. The report will explain in writing the reasons why any qualified referred applicant (or in the event advertisement is required, any qualified person responding to the advertisement) was not hired and the reason therefore. The form of this report shall be in substantially the form found in Appendix 5, subject to such revision as the City deems appropriate and reasonable. Monthly reports may be extended to semi-annually reports once the initial workforce is hired.
  - g) Record Access: The Recipient shall provide the City with reasonable access to all files and records including payroll and personnel information reasonably necessary to confirm the accuracy of the information set forth in the semi-annual reports.
  - h) Work Place Access: The Recipient shall provide the City with reasonable access to the site to physically monitor the work site to verify the accuracy of the information set forth in the any reports.
  - i) Other Reports, Documents: In addition to the above reports, the Recipient shall furnish such reports or other documents that the City may request from time to time in order to implement the purposes of this agreement.
  - j) Incorporation of Agreement: The Recipient shall incorporate the provisions of this Agreement in all contracts, agreements and purchase orders for labor with any service, maintenance, security or management agent or Contractor engaged by the Recipient whose personnel will be assigned to the Recipient project.
- B. The Recipient pledges not to use local and local minority vendors solely as conduits for vendors that are not local and minority owned. Any discovery by Project Employment and Contracting Monitor of a Recipient, using the masthead of a local or minority owned business as a way to get credit for local or minority employment when it should not, will immediately subject the Recipient to the penalties listed in Section VIII (d) below.

**IX. Good Faith Defined. Commercial Tenants at the Project Site**

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

- A. The Recipient shall send all tenants of commercial space, including retail space, within the Project Site a Tenant Employment Services Guide in the form attached as Appendix 7.

- B. The Recipient shall require tenants of commercial, including any retail space to complete an annual questionnaire concerning the composition of the work force of each tenant. The completed questionnaire be submitted to the Project Employment & Contracting Monitor. The questionnaire shall be in the form attached as Appendix 8.
- C. The Recipient will send the results of its solicitation to the Project Employment & Contracting Monitor no later than December 1<sup>st</sup> of each year.

**X. Notices of Violation:**

- 1. **Advisory Notice:** The City will issue a written Advisory Notice to the Recipient if there is non-compliance with a Good Faith requirement as defined in this agreement. The Advisory Notice shall explain in sufficient detail the basis of the alleged violation. The Recipient shall have 7 days to correct the violation.
- 2. **Violation Notice:** If the alleged violation set forth in the Advisory Notice has not been corrected to the satisfaction of the City the City shall issue a Violation Notice to the Recipient. The Violation Notice shall explain in sufficient detail the basis of the alleged, continuing violation. The Recipient will have three (3) working days to correct the violation.
- 3. **Correcting the Violation:** Either or both the Advisory Notice or the Violation Notice may be considered corrected if the Recipient satisfies the requirements of this agreement and so advises the City in writing, subject to confirmation by the City.
- 4. **Extension of Time to Correction:** Either the Advisory Notice or the Violation Notice may be held in abeyance and the time for correction extended if the Recipient enters into satisfactory written agreement with the City for corrective action which is designed to achieve compliance. If Recipient fails to abide by the terms of such agreement the violation will be considered not corrected.

If the City determines that the Recipient is in violation after the expiration of the cure periods, the Recipient agrees that the City shall be entitled to the liquidated damages provided below.

**XI. Liquidated Damages:**

- 1. While reserving any other remedies the City may have at law or equity for a material breach of the above terms and conditions, the parties agree that damages for violations of this agreement by the Recipient cannot be calculated within any reasonable degree of mathematical certainty. Therefore, the parties agree that upon the occurrence of a material breach of any of the above terms and conditions and after notice and expiration of any cure period, the City will be entitled to liquidated damages from the Recipient in the following amounts:
  - A. Failure to file Initial Manning Report (Construction Jobs) or Pre-Hiring Notification (Permanent Jobs) or Pre-Contracting Notification (Business Contracts): an amount equal

to Five percent (5%) increase in the estimated annual service charge as set forth in the Financial Agreement for each quarter or part thereof that the Recipient is non compliant.

- B. Failure to conduct Pre-hiring Interviews or submit Compliance Statement (Submit description of goods or services, (Business Contracting): an amount equal to Three (3%) percent of the estimated annual service charge as set forth in the Financial Agreement for each quarter or part thereof that the Recipient is non compliant.
  
- B. Failure to allow record or work place access or submit any other required reports (all categories): an amount equal to Three (3%) percent increase service charge as set forth in the Financial Agreement for each quarter or part thereof that the Recipient is non compliant.
  
- C. The use of the local or local minority business' masthead for labor or work supplied by a non local or local minority vendor: An amount equal to Ten (10%) service charge as set forth in the Financial Agreement for each quarter or part thereof, the Recipient is non compliant.

## **XII. Notices**

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

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

Bergen Academy Urban Renewal, LLC  
c/o Amerestate Holdings, LLC  
35 Kensington Avenue  
P.O. Box 6828  
Jersey City, NJ 07306  
Att:

and

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

City of Jersey City  
Department of Administration  
Division of Economic Opportunity  
Project Employment & Contracting Monitor  
280 Grove Street  
Jersey City, New Jersey 07302  
Att: Division Director

and

Director of Jersey City Employment and Training Program, Inc  
895 Bergen Avenue—2<sup>nd</sup> Floor  
Jersey City, NJ 07306  
Att: Executive Director

with separate copies to the Mayor and the Business Administrator.

**XIII. Appendix**

These forms are examples only and shall be in substantially the form on file in the Division of Economic Opportunity, subject to modifications from time to time by the City as necessary or appropriate.

1. Letter designating Recipient's Project Employment & Contracting Officer
2. Letter from Recipient to Employees of Recipient's Company
3. Acknowledgment of PECA compliance of Subcontractor
4. Example of Hiring Plan
5. Example of Monthly Employment Report
6. Example of Monthly Purchasing Report
7. Tenant Employment Services Guide
8. Commercial Retail Annual Questionnaire

**XIV. Adoption, Approval, Modification:**

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

**XII. Controlling Regulations and Laws:**

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

In the event there are any conflicts between this Agreement and any Project Labor Agreement, then as it pertains to construction jobs covered by the PLA, the Project Labor Agreement shall govern. Wherever possible, this Agreement shall be interpreted consistently with the Project Labor Agreement.

**ATTEST:**

**CITY OF JERSEY CITY**

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

\_\_\_\_\_  
**Robert J. Kakoleski**  
Business Administrator

**WITNESS:**

**BERGEN ACADEMY URBAN  
RENEWAL, LLC**

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

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



STEVEN M. FULOP  
MAYOR OF JERSEY CITY

CITY OF JERSEY CITY  
OFFICE OF TAX ABATEMENT AND COMPLIANCE  
DEPARTMENT OF ADMINISTRATION

13-15 LINDEN AVENUE EAST | JERSEY CITY, NJ 07305  
P: 201 547-4538



PIERRE E. LEANDRE  
DIRECTOR

**INITIAL MEETING**

**PROJECTS:** 880 Bergen Academy U.R., LLC

**SITE ADDRESS:** 880 Bergen Ave.

**DEVELOPER:** Amerestate Holdings, LLC

**ATTORNEY:** Matthew Karrenberg (DeCotiis, FitzPatrick & Cole)

**GENERAL CONTRACTOR:** RMCH, Inc.

**DATE:** May 18, 2016

Please be advised that an initial meeting was scheduled on the aforementioned date at 11:00am at the Office of Tax Abatement and Compliance, located in the Jersey City Municipal Services Complex at 13-15 Linden Avenue East for the above mentioned project. Director Pierre Leandre and I met with Jacob, Daniel and Eli Salamon of Amerestate Holdings, LLC (Developer), Saul Rosenblum, President of RMCH, Inc. (General Contractor) and Matthew Karrenberg, Attorney from the law firm of DeCotiis, FitzPatrick & Cole LLP representing the developers. The purpose of this meeting was to discuss the project and to inquire how the City's employment and business development goals can be reached through the Project Employment and Contracting Agreement (PECA).

The project located at 880 Bergen Avenue is a conversion and rehabilitation of an existing ten (10) story office building into approximately fifty five (55) residential units. There will be approximately thirty five hundred (3,500) square feet of ground floor retail. This retail space is currently being leased by Bank of America and will remain in place upon completion of the project. There will be approximately two thousand nine hundred fifty (2,950) square feet of total rooftop indoor amenity space, as well as some rooftop outdoor amenity space. This application is for a thirty (30) year tax abatement with a projected total cost of \$13,972,915.00, of which the construction cost being \$6,500,000.00. The project is being estimated to create approximately one hundred forty (140) jobs during the construction phase and possibly three (3) permanent jobs upon completion. The developer would like to start this project immediately, and estimate it will take 12 - 18 months to complete the project from the commencement date. This is Amerestate Holdings, LLC first tax abated project in Jersey City.

The Jersey City Project Employment & Contracting Agreement (PECA), together with all pertinent documentation was reviewed with all parties to ensure complete understanding of the agreement, and the goal of achieving full compliance throughout the entire project was thoroughly discussed. Copies of the documents relating to the PECA were given to the developer and an electronic copy of the packet was emailed to the attorney.

Finally, we indicated that there are mandatory preconstruction forms to be filled out and given to the Compliance Office prior to the preconstruction meeting, including the Initial Manning Reports by every subcontractor. Construction will not commence until all forms are received and approved by this Office and our employment and business development goals are met.

At the conclusion of the meeting, the developer and general contractor agreed to the terms of the Project Employment and Contracting Agreement (PECA) and fully intend to comply with the City's employment and business contracting requirements as described in the agreement. Therefore, the Jersey City Office of Compliance agrees to move this tax abatement application forward based on the results of this initial meeting.

Respectfully submitted,

Kevin A. Kane  
Assistant Director

Cc: Robert J. Kakoleski, Business Administrator  
Pierre Leandre, Director

**DATE:** July 13, 2016  
**TO:** Joanne Monahan (For distribution to City Council and City Clerk)  
**FROM:** Al Cameron, Fiscal Officer - Tax Collector's Office  
**SUBJECT:** TWENTY-FIVE YEAR TAX ABATEMENT: MIXED-USE MARKET RATE RENTAL PROJECT – Bergen Academy Urban Renewal LLC, TL, 880 Urban Renewal, LLC and 824 Associates, LLC  
880 Bergen Avenue - Block 13402 Lot 17.01

**CC:** M. Cosgrove, E. Borja, E. Toloza, M. Vigil, R. Kakoleski, R. Lavarro, P. Leandre, K. Kane, G. Corrado,

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**INTRODUCTION:**

The applicants, Bergen Academy Urban Renewal LLC, TL, 880 Urban Renewal, LLC and 824 Associates, LLC are jointly applying for a twenty-five (25) year tax abatement under N.J.S.A. 40 A: 20-1 et seq. It will be a market rate mixed use rental project within the Journal Square 2060 Redevelopment Plan area. The proposed project is located in Tier IV on the Jersey City Tax Exemption Policy Map. The application fee of \$9,500 was paid.

**LOCATION OF THE PROPERTY:**

The property is located at the corner of Bergen Avenue and Academy Street. Know as 880 Bergen Avenue, it consists of Block 13402 Lot 17.01.

**PROPERTY TO BE CONSTRUCTED:**

It will be a renovation and rehabilitation of an existing ten (10) story office building with approximately 3,489 square feet of ground floor commercial space. The ground floor will remain commercial. The residential floors will consist of fifty-five (55) market rate residential units. The residential units are as follows:

<u>Unit Type</u>	<u>Number of Units</u>
Studio	25
One Bedroom	29
Three Bedroom Penthouse	1
Total:	<u>55</u>

**ESTIMATED TOTAL CONSTRUCTION COST:**

The cost of construction is estimated at \$6,500,000 is certified by Dean Marchetto the applicant's architect. (Labor: \$3,900 Material: \$2,600,000) Total Project Cost is

projected at \$13,972,915.

**CONSTRUCTION SCHEDULE:**

The applicant is prepared to begin construction in once the tax abatement application is approved. Completion is expected within twelve (12) months of commencement.

**ESTIMATED JOBS CREATED:**

The applicant estimates creation of one hundred and forty (140) jobs during Construction and approximately three (3) permanent jobs after construction. The applicant will execute a Project Employment and Contracting Agreement. However; based upon the estimated construction cost, a Project Labor Agreement is not required.

**AFFORDABLE HOUSING TRUST FUND CONTRIBUTIONS:**

At the rate of \$1,500 per residential unit for fifty-five (55) units plus \$1.50 per Sq. Ft. for 3,449 sq. Ft. of retail space, the applicant proposes a total AHTF contribution of \$87,733.50.

**CURRENT REAL ESTATE TAX:**

The existing assessment for the land is \$282,300 and the assessment for the existing building is \$812,500. At the current tax rate of \$74.82 the estimated annual tax for the existing building is \$60,791.25 and the existing tax on the land is existing land tax is \$21,122.

The new assessment on the land is \$480,800 and for the improvements it is \$2,250,700. All taxes are current.

**PROPOSED ABATEMENT:**

The property is in Tier IV of the Jersey City Tiered Tax Exemption Policy Map. The proposed term of the abatement is the lesser of thirty (30) years from the date of approval of an ordinance approving the abatement or twenty-five (25) years from substantial completion of the project.

The proposed Annual Service Charge is eleven percent (11%) of Annual Gross Revenue for years one (1) through six (6). A two percent (2%) City administrative fee and a five percent (5%) service charge to Hudson County would be charged annually.

Beginning the first day of year seven (7) through the end of year ten (10) it would be the greater of the annual service charge or twenty percent (20%) of

conventional taxes otherwise due.

Beginning the first day of year eleven (11) through the end of year fourteen (14) it would be the greater of the annual service charge or forty percent (40%) of conventional taxes otherwise due.

Beginning the first day of year fifteen (15) through the end of year twenty (20) it would be the greater of the annual service charge or sixty percent (60%) of conventional taxes otherwise due.

Beginning in year twenty-one (21) through the end of year twenty-five (25) it would be the greater of the annual service charge or eighty percent (80%) of conventional taxes otherwise due.

Beginning in year twenty-six (26) the project would pay full conventional taxes.

**PROPOSED REVENUE TO THE CITY:**

At full occupancy the Applicant's good faith estimated initial annual revenue is \$1,235,737.66. The Annual Service Charge at the rate of eleven percent (11%) is \$135,931. The City Administrative fee at two percent (2%) would be \$2,718.62 and the Hudson County fee of five percent (5%) would be \$6,796.55.

<b>BERGEN ACADEMY URBAN RENEWAL, LLC</b>					<b>13402-17.01</b>
<b>Block 13402</b>	<b>Lot 17.01</b>				
<b>880 Bergen Avenue</b>					

Block	Lot		Existing	New Assessments	Good Faith ASC	Bldg. Assmt (Phased-In)
12301	2	Land	282,300	480,800		
		Bldg	812,500	2,250,700	135,931	2,250,700
		Total	1,094,800	2,731,500	135,931	2,250,700

**Est. In-Lieu of Full Conventional Property Tax, An Amount Equal To A Percentage Of Taxes Otherwise Due On Improvement According To The Following Schedule;**

Stages		Annual Taxes (Bldg)
1	From the 1st day of the month following substantial completion until the last day of the 6th year, the ASC shall be at 11% ;	\$ 135,931 0
2	Beginning on the 1st day of the 7th year and the last day of the 10th year of substantial completion, an amount equal to the greater of the ASC at 11% or 20% of the amount of taxes otherwise due;	\$ 135,931 \$ 33,679
3	Beginning on the 1st day of the 11th year and the last day of the 14th year of substantial completion, an amount equal to the greater of the ASC at 11% or 40% of the amount of taxes otherwise due;	\$ 135,931 \$ 67,359
4	Beginning on the 1st day of the 15th year and the last day of the 20th year of substantial completion, an amount equal to the greater of the ASC at 11% or 60% of the amount of taxes otherwise due;	\$ 135,931 \$ 101,038
5	Beginning on the 1st day of the 21st year and the last day of the 25th year of substantial completion, an amount equal to the greater of the ASC at 11% or 80% of the amount of taxes otherwise due;	\$ 135,931 \$ 134,718
	<b>Annual Taxes on Improvement at Expiration</b>	<b>168,352</b>

6/22/2016

**SERVICE CHARGE VS CONVENTIONAL**

**BERGEN ACADEMY URBAN RENEWAL, LLC**

\*ASSUMING 74.82 TAX RATE WITH 2% ANNUAL INCREASE

BLOCK 13402  
LOT 17.01

NEW ASSESSMENTS BASED ON TAX ASSESSOR ANALYSIS

LAND	480,800	COUNTY	5%	EXISTING ASSESSMENT	1,094,800
BLDG	2,250,700	ADMIN	2%		
TOTAL	2,731,500			PROJECTED SERVICE CHARGE (1ST YEAR)	135,931

YEAR	ASC w/ Phase-In Less Land Tax Credit	ASC w/ 2% Annual Increase	ASC w/ 2% Annual Increase & Phase-In	County	Admin	Estimated Conventional Taxes On NEW Assessment	Staged Adj Rate	Conventional Taxes at 51% (Estimated)	Current Taxes On EXISTING Assessment	Land Tax
1	99,958	135,931	135,931	6,797	2,719	204,371		104,229	81,913	35,973
2	101,957	138,650	138,650	6,932	2,773	208,458		106,314	83,551	36,693
3	103,996	141,423	141,423	7,071	2,828	212,627		108,440	85,222	37,427
4	106,076	144,251	144,251	7,213	2,885	216,880		110,609	86,927	38,175
5	108,197	147,136	147,136	7,357	2,943	221,218		112,821	88,665	38,939
6	110,361	150,079	150,079	7,504	3,002	225,642		115,077	90,439	39,718
7	112,568	153,080	153,080	7,654	3,062	230,155		117,379	92,247	40,512
8	114,820	156,142	156,142	7,807	3,123	234,758		119,727	94,092	41,322
9	117,116	159,265	159,265	7,963	3,185	239,453		122,121	95,974	42,149
10	119,459	162,450	162,450	8,123	3,249	244,242	20%	124,563	97,894	42,992
11	121,848	165,699	165,699	8,285	3,314	249,127	20%	127,055	99,851	43,851
12	124,285	169,013	169,013	8,451	3,380	254,109	20%	129,596	101,848	44,728
13	126,770	172,393	172,393	8,620	3,448	259,192	20%	132,188	103,885	45,623
14	129,306	175,841	175,841	8,792	3,517	264,375	40%	134,831	105,963	46,536
15	131,892	179,358	179,358	8,968	3,587	269,663	40%	137,528	108,082	47,466
16	134,530	182,945	182,945	9,147	3,659	275,056	40%	140,279	110,244	48,416
17	137,220	186,604	186,604	9,330	3,732	280,557	40%	143,084	112,449	49,384
18	139,965	190,336	190,336	9,517	3,807	286,169	60%	145,946	114,698	50,372
19	142,764	194,143	194,143	9,707	3,883	291,892	60%	148,865	116,992	51,379
20	145,619	198,026	198,026	9,901	3,961	297,730	60%	151,842	119,332	52,407
21	148,532	201,986	201,986	10,099	4,040	303,684	60%	154,879	121,718	53,455
22	193,283	206,026	247,806	12,390	4,956	309,758	80%	157,977	124,153	54,524
23	197,148	210,147	252,763	12,638	5,055	315,953	80%	161,136	126,636	55,614
24	201,091	214,349	257,818	12,891	5,156	322,272	80%	164,359	129,168	56,727
25	205,113	218,636	262,974	13,149	5,259	328,718	80%	167,646	131,752	57,861
<b>TOTAL</b>	<b>3,373,872</b>	<b>4,353,911</b>	<b>4,526,113</b>	<b>226,306</b>	<b>90,522</b>	<b>6,546,059</b>		<b>3,338,490</b>	<b>2,623,696</b>	<b>1,152,241</b>

ASC phase-in reflects annual 2% increase in conventional taxes AND Gross Rents  
Projected figures subject to rounding discrepancies

**FISCAL IMPACT COST PROJECTION (MARKET RATE RENTAL UNITS - 25 YEAR)**

**Block: 13402 Lot: 17, 18, 19 Loc: 880 BERGEN AVE.**

Market Rate Rental Units Planned Development	Number of Units	Demographic Multipliers (Transit Oriented Development)*				Annual Expenditures		Total Annual Expenditures		
		Household	Students	Residents	Students	Per Capita Municipal	Per Pupil Per School District	Municipal	School District	Total
Studio	25	1.000	0.000	25.00	0.00	\$1,181.83	\$3,673.00	\$29,545.72	\$0.00	\$29,545.72
1 Bedroom	29	1.421	0.050	41.21	1.45	\$1,181.83	\$3,673.00	\$48,701.98	\$5,325.85	\$54,027.83
3 Bedroom	1	2.798	0.560	2.80	0.56	\$1,181.83	\$3,673.00	\$3,306.76	\$2,056.88	\$5,363.64
<b>TOTAL</b>	<b>55</b>			<b>69.01</b>	<b>2.01</b>			<b>\$81,554.46</b>	<b>\$7,382.73</b>	<b>\$88,937.19</b>

1. Total Municipal Ratables	\$5,997,768,597	4. CY 2015 Budget	\$535,307,187	6. Population of Jersey City (2010 Census)	247,597	9. Increase in Services Incurred Per Development	\$ 88,937.19
2. Residential Ratables	\$3,278,586,056			7. Per Capita Municipal Cost	\$1,181.83	10. Anticipated Gross PILOT (1st Year)	
Commercial Ratables	\$1,512,274,524			8. Annual Expenditures Per Student**	\$3,673.00	11% AGR	\$ 135,931.00
3. Residential Ratables as a Percentage of Total Ratables	54.66%	5. Residential Portion	\$292,617,271			2% Admin	\$ 2,718.62
						Less Land Tax (74.82)	\$ (35,973.46)
						11. 1st Year Net PILOT	\$ 102,676.16
						12. Implied Surplus (Cost)	\$ 13,738.97

Classic Average costing approach for projecting the impact of population change and local Municipal and School District costs

NEW ASSESSMENT AFTER IMPROVEMENTS

\*Source: New Jersey Demographic Multipliers: Profile of the Occupants of Residential and Nonresidential Development; Listokin, November 2006

\*\*Source: 2015-2016 Jersey City Municipal Cost Per Pupil

LAND: 480,800  
BLDG: 2,250,700