

**AGENDA
COUNCIL MEETING
NOVEMBER 3, 2021**

**140 NORTH BROADWAY
SOUTH AMBOY, NJ 08879**

6:00 P.M.

1. MEETING CALLED TO ORDER BY COUNCIL PRESIDENT
2. OPENING PRAYER AND SALUTE TO THE FLAG
3. ROLL CALL: DATO____, McLAUGHLIN____, NOBLE _____, REILLY _____, GROSS_____
4. CERTIFICATION OF MEETING BY COUNCIL PRESIDENT

CONSENT AGENDA:

The following items are considered to be routine by the City Council and will be acted upon in one motion. There will be no separate discussion of these items unless a Council member so requests. In this event, the item will be removed from the Consent Agenda and considered in the normal sequence of the Agenda.

MOVED by: _____ of the Council of the City of South Amboy, that Resolution #21-207 and #21-217 through #21-2XX are hereby approved. **SECONDED by:** _____.

ROLL CALL VOTE:

- | | |
|------------|---|
| NO. 21-217 | RESOLUTION AUTHORIZING BUDGET TRANSFERS IN ACCORDANCE WITH N.J.S.A. 40A::4-5B |
| NO. 21-218 | GOVERNOR'S COUNCIL ON ALCOHOLISM AND DRUG ABUSE FISCAL GRANT CYCLE OCTOBER 2020 - JUNE 2025 |
| NO. 21-219 | TAX REFUND - ORELOGIC - O'CONNOR VET EXEMPTION |
| NO. 21-220 | TAX REFUND - CORELOGIC - CATHERINE & JOHN STREETS |
| NO. 21-221 | SEWER USE FEE REFUND - MODZELEWSKI |
| NO. 21-222 | TAX REFUND - VETERAN - GORMAN |
| NO. 21-223 | VETERAN TAX REFUND - KELLY |

RESOLUTIONS:

RESOLUTION NO. 21-224
APPROVAL AND RELEASE OF MINUTES

BE IT RESOLVED, that the City Council of the City of South Amboy does hereby approve and release the Council Minutes of the October 20, 2021 Council Meeting.

MOVED by: _____ of the Council of the City of South Amboy, that Resolution No. 21-224 is hereby approved. **SECONDED by:** _____ **ROLL CALL VOTE:**

RESOLUTION NO. 21-225
APPROVAL OF BILL LIST

BE IT RESOLVED, that the City Council of the City of South Amboy does hereby receive and approve the payment of the bill list dated October 28, 2021, as presented by the Chief Financial Officer.

BE IT FURTHER RESOLVED, that the bills list be appended to the official minutes.

MOVED by: _____ of the Council of the City of South Amboy, that Resolution No. 21-225 is hereby approved. **SECONDED by:** _____. **ROLL CALL VOTE:**

ORDINANCES:

SECOND READING/ADOPTION

ORDINANCE NO. 2021-19

ORDINANCE OF THE CITY OF SOUTH AMBOY, COUNTY OF MIDDLESEX, NEW JERSEY APPROVING APPLICATION FOR A LONG TERM TAX EXEMPTION AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH MANHATTAN BEACH PHASE 1 URBAN RENEWAL LLC

OPEN PUBLIC
CLOSE PUBLIC

MOVED by: _____, of the Council of the City of South Amboy, that Ordinance #2021-19 is hereby adopted.
SECONDED by: _____, **ROLL CALL VOTE:**

ORDINANCE NO. 2021-20

ORDINANCE OF THE CITY OF SOUTH AMBOY, COUNTY OF MIDDLESEX, NEW JERSEY APPROVING APPLICATION FOR A LONG TERM TAX EXEMPTION AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH SA 101 MAIN STREET URBAN RENEWAL LLC

OPEN PUBLIC
CLOSE PUBLIC

MOVED by: _____, of the Council of the City of South Amboy, that Ordinance #2021-20 is hereby adopted.
SECONDED by: _____, **ROLL CALL VOTE:**

COMMENTS:

PUBLIC COMMENTS:

ADJOURNMENT

**CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX**

RESOLUTION #21-217

**RESOLUTION AUTHORIZING BUDGET TRANSFERS
IN ACCORDANCE WITH N.J.S.A. 40A:4-58**

WHEREAS, N.J.S.A. 40A:4-58 provides for appropriation transfers during the last two (2) months of the fiscal year, when it has been determined it is necessary to expend for any of the purposes specified in the budget an amount in excess of the sum appropriated therefore and where it has been further determined that there is an excess in any appropriation over and above the amount deemed to be necessary to fulfill the purpose of such appropriation, the governing body may, by resolution setting forth the facts, adopted by not less than two-thirds vote of the full membership thereof, transfer the amount of such excess to those appropriations deemed to be insufficient;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of South Amboy, in the County of Middlesex and State of New Jersey, that the Chief Financial Officer be and the same is hereby authorized to make transfers among the 2021 budget appropriations in accordance with the attached schedule of transfers.

Budget	Account	FROM	TO
1-01-20-100-020	Administration: Other Expenses		12,000.00
1-01-20-110-020	Mayor/Council: Other Expenses		3,000.00
1-01-20-120-010	Municipal Clerk: Salaries & Wages	7,000.00	
1-01-20-120-020	Municipal Clerk: Other Expenses		7,000.00
1-01-20-155-020	Legal Services: Other Expenses	40,000.00	
1-01-25-240-020	Police: Other Expenses		7,000.00
1-01-25-265-020	Fire Dept: Other Expenses		3,000.00
1-01-26-307-010	Sewer: Salaries & Wages		10,000.00
1-01-26-307-020	Sewer: Other Expenses	10,000.00	
1-01-26-310-010	Buildings & Gorunds: Salaries & Wages	35,000.00	
1-01-26-310-020	Buildings & Gorunds: Other Expenses		15,000.00
1-01-26-315-020	Vehicle Maintenance: Other Expenses		6,000.00
1-01-31-430-240	Telecommunications: Other Expense		15,000.00
1-01-27-330-020	Public Health Services: Other Expenses		9,000.00
1-01-41-899-020	Matching Funds for Grants: Other Expenses		5,000.00
		<u>\$92,000.00</u>	<u>\$92,000.00</u>

RESOLUTION 21-218

Governor's Council on Alcoholism and Drug Abuse

Fiscal Grant Cycle October 2020-June 2025

FORM 1B

WHEREAS the Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

WHEREAS, The City Council of the City of South Amboy, County of Middlesex, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore, has an established Municipal Alliance Committee; and,

WHEREAS the City Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and,

WHEREAS, the City Council has applied for funding to the Governor's Council on Alcoholism and Drug Abuse through the County of Middlesex.

NOW, THEREFORE, BE IT RESOLVED by the City of South Amboy, County of Middlesex, State of New Jersey hereby recognizes the following:

1. The City Council does hereby authorize submission of a strategic plan for the South Amboy Municipal Alliance grant for fiscal year 2023 in the amount of:

DEDR	\$6,288
Cash Match	\$1,572
In-Kind	\$4,716
2. The City Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

APPROVED: _____
(Name), Mayor/Head of Governing Body

**CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX:**

RESOLUTION NO. 21-219

TAX REFUND – CORELOGIC – O’CONNOR VETERAN EXEMPTION

WHEREAS an overpayment was made by Corelogic on the following properties in the City of South Amboy, County of Middlesex on the 3rd & 4TH quarter of 2021; and

<u>Block</u>	<u>Lot</u>	<u>Qual</u>	<u>Address</u>	<u>Refund Amount</u>
146	10		361 Conover St	\$3270.95

WHEREAS the owner Robert O’Connor is exempt from property taxes as exempt veteran; and

WHEREAS the tax collector has certified the above payment has been made and on file in the tax collector’s office; and

WHEREAS Robert O’Connor has requested a refund be made to Corelogic to make whole the escrow account of Mr. O’Connor; and

NOW, THEREFORE be it resolved, by the Governing Body of the City of South Amboy, Middlesex County, New Jersey, that the Chief Financial Officer be and the same is hereby authorized to issue a check in the amount of \$3270.95 and the Tax Collector is hereby authorized to adjust the tax records to reflect a refund in the amount of \$3270.95 and cancel the 1st and 2nd quarter property taxes for 2022.

Corelogic Centralized Refunds
3001 Hackenberry Rd
Irving, TX 75063-0156

**CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX:**

RESOLUTION NO. 21-220

TAX REFUND - CORELOGIC

WHEREAS an overpayment was made by Corelogic on the following properties in the City of South Amboy, County of Middlesex on the 4th quarter of 2021; and

<u>Block</u>	<u>Lot</u>	<u>Qual</u>	<u>Address</u>	<u>Refund Amount</u>
29	10		231 Catherine St	\$1421.87
34	31		117 John St	<u>\$2067.10</u>
				\$3488.97

WHEREAS the tax collector has certified the above payment has been made and on file in the tax collector's office; and

WHEREAS, Corelogic has requested a refund; and

NOW, THEREFORE be it resolved, by the Governing Body of the City of South Amboy, Middlesex County, New Jersey, that the Chief Financial Officer be and the same is hereby authorized to issue a check in the amount of \$3488.97 and the Tax Collector is hereby authorized to adjust the tax records to reflect a refund in the amount of \$3488.97

Corelogic Centralized Refunds
3001 Hackenberry Rd
Irving, TX 75063-0156

**CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX:**

RESOLUTION NO. 21-221
SEWER FEE REFUND – MODZELEWSKI

WHEREAS, an overpayment of \$89.30 was made by Slawomir Modzelewski for sewer user fees on account 99970711-0, 122 John St, City of South Amboy, County of Middlesex, Block 35 Lot 7; and

WHEREAS, Slawomir Modzelewski moved from 122 John St. on August 31, 2021; and

WHEREAS, the tax collector has certified the above payment has been made and on file in the tax collector's office; and

WHEREAS, Slawomir Modzelewski has requested a refund; and

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of South Amboy, Middlesex County, New Jersey, that the Chief Financial Officer be and the same is hereby authorized to issue a check to Slawomir Modzelewski in the amount of \$89.30 and the tax collector authorized to adjust sewer account 99970711-0.

**CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX**

RESOLUTION 21-222
VETERAN TAX EXEMPTION - GORMAN

WHEREAS, Thomas J Gorman is the owner of premises situate at and known as 255 Connors Drive, known and designated as Block 159 Lot 11 on the official Tax Map of the City of South Amboy; and

WHEREAS, under the provisions of NJSA 54:4-3.30 (as amended) the dwelling house and lot of a veteran declared to be 100% permanently disabled is exempted from taxation; and

WHEREAS, Thomas J Gorman, a veteran, has filed with the Tax Assessor of the City of South Amboy a claim for Property Tax Exemption by Disabled Veteran and said application has been approved by the Tax Assessor of the City of South Amboy effective February 3, 2021; and

WHEREAS, the taxes assessed against said premises for the year 2021 1st, 2nd and 3rd quarters in the amount of \$5870.32 have been paid in full; and

WHEREAS, the property owner is responsible for real estate taxes through February, 2021; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of South Amboy that the Chief Financial Officer of the City of South Amboy be is hereby authorized and directed to refund the taxes for 1st, 2nd & 3rd quarter 2021 in the amount of \$5870.32 and cancel property taxes for the 4th 2021 AND 1st & 2nd of 2022 ; and

BE IT FURTHER RESOLVED, under and by virtue of NJSA 54:4-3.30, that the property known as Block 159, Lot 11 on the tax map of the City of South Amboy be and the same is hereby declared to be exempt from taxation from and after February, 2021.

Thomas J Gorman
255 Connors Drive
South Amboy, NJ 08879

RESOLUTION NO. 21-223
VETERAN TAX REFUND - KELLY

WHEREAS, Michael Kelly, 533 Henry St, City of South Amboy, County of Middlesex Block 78 Lot 1.01 applied for a veteran property tax deduction; and

WHEREAS, the following applicant is entitled to the \$250.00 deduction; and

WHEREAS the tax collector certifies that the property taxes are paid current for 2021; and

WHEREAS Michael Kelly is entitled to a refund of \$250.00 for 2021;

NOW, THEREFORE, BE IT RESOLVED by the Council of City of South Amboy, Middlesex County, New Jersey that the Chief Financial Officer be and the same is hereby authorized to issue a check to Michael Kelly in the amount \$250.00 for 2021. The Tax Assessor is hereby authorized to adjust the MOD IV system for 2022.

MINUTES FOR COUNCIL MEETING OCTOBER 20, 2021

The Meeting held at South Amboy City Hall, 140 North Broadway, South Amboy, New Jersey, was called to order by Councilwoman Dato at 7:00 P.M. The City Clerk read the Opening Prayer and all recited the Pledge of Allegiance.

PRESENT: Councilwoman Dato, Councilman McLaughlin, and Councilman Reilly

ALSO PRESENT: Mayor Fred Henry, Glenn Skarzynski, Business Administrator, Deborah Brooks, City Clerk, Mark Rasimowicz, Eng. and Francis Womack CFO.

Councilwoman Dato read the Notice of Publication Certification.

PRESENTATION: Citizen Recognition: Surjit Singh, Kimberly Seber, and Edward Szatkowski

Mr. Reilly presented the above citizens with Recognition Resolutions speaking at length about all the volunteer work and community involvement that made them such assets to the community. Approximately 75 family and friends of Mr. Singh, Ms. Seber and Mr. Szatkowski were present.

DISCUSSION: Best Practices

Mr. Skarzynski reviewed the Best Practice results with the Council and answered questions from Mr. Reilly regarding some of the questions.

CONSENT AGENDA:

The following items are considered to be routine by the City Council and will be acted upon in one motion. There will be no separate discussion of these items unless a Council member so requests. In this event, the item will be removed from the Consent Agenda and considered in the normal sequence of the Agenda.

MOVED by: Mr. McLaughlin of the Council of the City of South Amboy, that Resolution # 21-207 and #21-212 through #21-214 are hereby approved as amended by the removal of Resolution 21-207. **SECONDED by:** Mr. Reilly. **ROLL CALL VOTE:** All in favor.

NO. 21-207 AUTHORIZING THE AWARD OF A FAIR AND OPEN CONTRACT FOR PASSENGER FERRY OPERATOR – **PULLED FROM CONSENT AGENDA**

NO. 21-212 RESOLUTION CERTIFYING ACTIVE MEMBERSHIP WITH SOUTH AMBOY FIRE DEPARTMENT FOR NEW JERSEY STATE FIREMEN'S ASSOCIATION ELIGIBILITY – BRITO AND STRUNK

NO. 21-213 RESOLUTION REFUNDING TAX – CORELOGIC 317 FOURTH ST.

NO. 21-214 RESOLUTION PROVIDING FOR THE INSERTION OF A SPECIAL ITEM OF REVENUE IN THE BUDGET PURSUANT TO N.J.S.A. 40A:4-87 (CH. 159, P.L. 148) – PUBLIC AND PRIVATE REVENUES OFFSET BY APPROPRIATIONS

RESOLUTIONS:

**RESOLUTION NO. 21-215
APPROVAL AND RELEASE OF MINUTES**

BE IT RESOLVED, that the City Council of the City of South Amboy does hereby approve and release the Council Minutes of the October 6, 2021 Council Meeting.

MOVED by: Mr. McLaughlin of the Council of the City of South Amboy, that Resolution No. 21-215 is hereby approved. **SECONDED by:** Mr. Reilly **ROLL CALL VOTE:** All in favor.

**RESOLUTION NO. 21-216
APPROVAL OF BILL LIST**

BE IT RESOLVED, that the City Council of the City of South Amboy does hereby receive and approve the payment of the bill list dated October 14, 2021, as presented by the Chief Financial Officer.

BE IT FURTHER RESOLVED, that the bills list be appended to the official minutes.

MOVED by: Mr. McLaughlin of the Council of the City of South Amboy, that Resolution No. 21-216 is hereby approved. **SECONDED by:** Mr. Reilly. **ROLL CALL VOTE:** All in favor.

ORDINANCES:

SECOND READING/ADOPTION

ORDINANCE NO. 2021-17

ORDINANCE AUTHORIZING THE ACCEPTANCE OF A TEMPORARY GRADING EASEMENT BY THE CITY OF SOUTH AMBOY FROM MANHATTAN BEACH CLUB LLC FOR PURPOSES RELATED TO THE CONSTRUCTION OF THE PROPOSED FERRY TERMINAL FACILITY

**OPEN PUBLIC – no comment
CLOSE PUBLIC**

MOVED by: Mr. McLaughlin, of the Council of the City of South Amboy, that Ordinance #2021-17 is hereby adopted.

SECONDED by: Mr. Reilly, **ROLL CALL VOTE:** All in favor.

COMMENTS:

Mr. Reilly:

- Reiterated his thanks to the three citizens honored this evening.
- Thanked the First Aid Squad and Food Pantry for their continued good work.
- Requested people consider volunteering.
- Sent well wishes to Jerry "Otis" Garnett as he is dealing with some health issues.

- Sent Condolences to the James Sorrentino Family on the death of his mother Marie.
- Reminded everyone of the FOSA fund raising event on December 18th, details can be found on the FOSA Facebook page.
- Asked everyone to please patronize our local businesses.

Mr. McLaughlin:

- Thanked the volunteers, Police Department and Fire Department for their good work.
- Reminded everyone that with Thanksgiving and Christmas quickly approaching there are still many people in food crisis, so please donate if you can.
- Received and update on the installation of the speed bumps and requested Mr. Skarzyski look at the Raritan Street issue.

Ms. Dato:

- Reported that early voting starts on Saturday. The nearest polling location to South Amboy is the Senior Center at Sayreville. There are 10 early voting locations in Middlesex County. Information can be found on the County Election website. You can also do a mail in vote or go to the Middle-High School or Senior Center, depending on your Ward and District, to vote on Election Day.
- Please exercise your privilege and right to Vote!
- Reported the Senior Center will be offering Flu shots October 26th, 10am to 11am.

Mayor Henry:

- Sends his condolences to the Sorrentino family and noted James father had served on the Council in the 1960's.
- Noted it was great to honor the three citizens who have contributed so much to the City of South Amboy.
- Commended the Rotary Club for honoring some local volunteers. The video of the event will be available shortly.
- The Senior Citizen Group will be starting a Book Club on November 29th. Thank you to Elaine Gabor for setting this up.
- Reminded everyone that Touch-A-Truck is the Sunday, 10am to 3pm.
- The Historic Committee's Cemetery Tour is this Saturday at 3:30.
- Come out to vote!
- The Ferry project has received its completed permit form the Army Corps and we are one step closer to starting the construction of the new ferry line.

Mr. Womack:

- Reported he is working on the Ordinance to add Independence Fire Company to the Historic Property list.
- Requested Ms. Brooks put an Executive Session on the November 3rd meeting agenda to update the Council on two litigation cases and one contract negotiation

Mr. Rasimowicz:

- Reported the S. Broadway project is moving along and should be completed in about two weeks.
- Reported the N. Feltus & 6th Street project will be starting this week.

Mr. Skarzyski:

- The bidding for the revitalization of the baseball fields should go out in the next two weeks.

PUBLIC COMMENTS:

- 1) Greg Babilak questioned Ms. Brooks about the maintenance schedule for the audio/video equipment and received confirmation from BA Skarzysnki that if he wanted to speak to the audiologist he was welcome to do so "on his own dime".

ADJOURNMENT

On motion by Mr. McLaughlin, seconded by Mr. Reilly and passed unanimously, meeting was adjourned at 7:45 pm.

Respectfully submitted,

Deborah Brooks
Municipal Clerk

October 28, 2021
12:59 PM

CITY OF SOUTH AMBOY
Bill List By Vendor Id

Page No: 3

Vendor #	Name	PO #	PO Date	Description	Amount	Contract Charge Account	PO Type	Acct Type Description	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099 Excl
ASSOC005	Association of NJ Recyclers	21-02259	10/12/21	ANJR FALL MEETING 2021										
		1		ANJR FALL MEETING 2021	90.00	1-01-26-305-130		B Solid Waste: MCIA Recycling	R	10/12/21	10/28/21		21-0112342	N
		Vendor Total:			90.00									
ATHLE010	Athletic Sports Surfaces, LLC	21-01518	07/15/21	Tennis Court repairs										
		1		Tennis Court repairs	5,980.00	1-01-26-310-150		B B&G: Other Contractual Services	R	07/15/21	10/28/21		0105	N
		Vendor Total:			5,980.00									
B0000033	B & H Photo video	21-02045	09/20/21	Studio Camera - SATV										
		1		Studio Camera - SATV	1,558.06	1-01-44-900-700		B Capital Improv: TV Station Equip	R	09/20/21	10/28/21		194068616	N
		21-02296	10/14/21	Studio Camera Lens - SATV										
		1		Studio Camera Lens - SATV	345.60	1-01-44-900-700		B Capital Improv: TV Station Equip	R	10/14/21	10/28/21		194513013	N
		Vendor Total:			1,903.66									
C0000002	Cablevision of Raritan Valley	21-02297	10/14/21	10/8/21-11/7/21-108 S. Stevens										
		1		10/8/21-11/7/21-108 S. Stevens	163.90	1-01-31-430-245		B Utilities - Internet	R	10/14/21	10/28/21			N
		21-02306	10/15/21	10/8/21-11/7/21- City Hall										
		1		10/8/21-11/7/21- City Hall	205.79	1-01-31-430-245		B Utilities - Internet	R	10/15/21	10/28/21			N
		21-02311	10/15/21	10/8/21-11/7/21-DPW										
		1		10/8/21-11/7/21-DPW	224.33	1-01-31-430-245		B Utilities - Internet	R	10/15/21	10/28/21			N
		21-02396	10/26/21	10/22/21-11/21/21 102 N Feltus										
		1		10/22/21-11/21/21 102 N Feltus	125.39	1-01-31-430-245		B Utilities - Internet	R	10/26/21	10/28/21			N
		Vendor Total:			719.41									

October 28, 2021
12:59 PM

CITY OF SOUTH AMBOY
Bill List By Vendor Id

Page No: 5

Vendor # Name	PO # PO Date Description	Contract	PO Type	Stat/Chk	First Rcvd	Chk/Void	1099
Item Description	Amount	Charge Account	Acct Type Description	Enc Date	Date	Date Invoice	Excl
CELLO005 CELCO PARTNERSHIP							
20-02155 10/08/20 RESO NO. 20-266-Video Service							
1 RESO NO. 20-266-Video Service	55,839.25	G-02-41-800-061	B NJ DCA Transit Village Grant	R	10/08/20	10/28/21	9000277205 N
Vendor Total:	55,839.25						
CUSTO005 Custom Care Services, Inc.							
21-02356 10/25/21 Laen Maint. Agreement-Sept2021		21-00027 C					
1 Laen Maint. Agreement-Sept2021	7,490.00	1-01-26-310-080	B B&G: Horticultural Service	R	03/23/21	10/28/21	9302 N
Vendor Total:	7,490.00						
D0000058 Dynamic Testing Service							
21-02378 10/25/21 10/1/21-query full or limited							
1 10/1/21-query full or limited	33.00	1-01-26-290-299	B Streets/Roads: Misc Other Expenses	R	10/25/21	10/28/21	14150 N
Vendor Total:	33.00						
D0000063 Direct Energy Business							
21-02382 10/25/21 October '21 Billing							
1 October '21 Billing	76.33	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212930047143582 N
2 1066552-6th & Feltus	45.30	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212930047143580 N
3 1066553-Pupek/Park/N Stevens	9.95	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212930047143581 N
4 1066561-129 N Broadway	60.76	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212930047143584 N
6 1066582-33 Lighthouse Dr	0.00	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212940047154049 N
9 1066573-Rosewell & George	128.11	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212940047154048 N
11 1066567-Bordertown Ave	21.13	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212940047154047 N
12 1066550-S Feltus	30.61	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212940047154044 N
13 1066566-429 Bordertown	57.54	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212940047154046 N
16 1066572-Broadway & 1st St Pole	287.82	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212930047143585 N
17 1066564-108 S Stevens	585.20	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212940047154045 N
18 1066557-102 N Feltus	117.06	1-01-31-430-200	B Utilities - Electric	R	10/25/21	10/28/21	212930047143583 N
	1,419.81						
Vendor Total:	1,419.81						

October 28, 2021
12:59 PM

CITY OF SOUTH AMBOY
Bill List By Vendor Id

Page No: 6

Vendor #	Name	PO #	PO Date	Description	Amount	Contract Charge Account	PO Type	Acct Type Description	Stat/Chk	First Rcvd Enc Date Date	Chk/Void Date Invoice	1099 Exc
EIGHT005	Eighteen Glass Co., Inc.	21-02177	10/04/21	SENIOR BUS WINDOW	145.00	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh R		10/04/21 10/28/21	2061	N
				1 SENIOR BUS WINDOW								
				Vendor Total:	145.00							
F0000001	FRA Technologies, Inc.	21-02274	10/13/21	2022 Maint Update Contract-FRA	675.00	1-01-20-120-299		B Clerk: Miscellaneous Other Expenses R		10/13/21 10/28/21	CSA '21-'22	N
				1 2022 Maint Update Contract-FRA								
				Vendor Total:	675.00							
FRANC005	Francis M. womack III, Esq.	21-02393	10/26/21	July'21-Sept'21 Law Director	12,179.00	21-00016 C		B Legal: Professional Consultant & Spec R		04/28/21 10/28/21	7/21-9/21	N
				1 July-Sept'21 Law Director		1-01-20-155-195						
				Vendor Total:	12,179.00							
G0000002	Gannett, NJ Partners LP	21-02342	10/21/21	Sept'21 inv.0004142288	334.54	1-01-20-120-025		B Clerk: Advertising R		10/21/21 10/27/21	0004142288	N
				1 Sept'21 inv.0004142288								
				Vendor Total:	334.54							
GABRI005	Gabrielli Kenworth of New	21-02345	10/21/21	Computer override - Truck#12	525.00	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh R		10/21/21 10/28/21	42498DSC	N
				1 Computer override - Truck#12								
				2 Shop Charge	10.50	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh R		10/21/21 10/28/21	42498DSC	N
					535.50							
				Vendor Total:	535.50							
HBKIT005	HBK IT, LLC	21-01696	08/09/21	Sonicwall warranty Renewal- x2	3,861.00	1-01-20-100-095		B Admin: Maintenance Agreement R		08/09/21 10/28/21	11416	N
				1 Sonicwall warranty Renewal- x2								
				2 Sonicwall warranty Renewal- x2	526.62	1-01-26-310-095		B B&G: Maintenance Agreement R		08/09/21 10/28/21	11415	N
					4,387.62							

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Vendor #	Name	PO #	PO Date	Description	Amount	Contract	PO Type	Charge Account	Acct Type	Description	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099 Excl
HBKIT005	HBK IT, LLC					Continued										
21-02386	10/25/21 SonicWall Replacement PD-labor				994.50	C-04-21-001-004			B	Various Technology Improvements	R	10/25/21	10/28/21		11193	N
	Vendor Total:				5,382.12											
10000004	Jersey Central Power & Light Co															
21-02276	10/13/21 Sept'21 Billing															
1	Sept'21 Billing				2,735.82	1-01-31-430-200			B	Utilities - Electric	R	10/13/21	10/27/21		95009304675	N
2	200 001 069 026				0.00	1-01-31-430-200			B	Utilities - Electric	R	10/13/21	10/27/21		95009304686	N
3	200 001 069 000				430.82	1-01-31-430-200			B	Utilities - Electric	R	10/13/21	10/27/21		95009304684	N
4	200 000 010 922				752.67	1-01-31-430-200			B	Utilities - Electric	R	10/13/21	10/27/21		95009304682	N
5	200 000 010 930				1,434.95	1-01-31-430-200			B	Utilities - Electric	R	10/13/21	10/27/21		95009304683	N
6	200 001 069 018				3,823.74	1-01-31-430-200			B	Utilities - Electric	R	10/13/21	10/27/21		95009304685	N
7	200 001 069 034				13,456.40	1-01-31-430-200			B	Utilities - Electric	R	10/13/21	10/27/21		95009304687	N
	Vendor Total:				22,634.40											
21-02381	10/25/21 New Account-100 139 729 600															
1	New Account-100 139 729 600				38.02	1-01-31-430-200			B	Utilities - Electric	R	10/25/21	10/28/21		95616681134	N
	Vendor Total:				22,672.42											
10000010	Johnny On The Spot, LLC															
21-01102	05/26/21 Bathroom units for Irish Fest.															
1	Bathroom units for Irish Fest.				1,249.00	1-01-30-420-299			B	Celebration: Misc Other Expenses	R	05/26/21	10/28/21		0006327888	N
21-02368	10/25/21 Unit Maintenance Sept-Nov															
1	Unit Maintenance Sept-Nov				152.84	1-01-28-370-095			B	Recreation: Maintenance Agreement	R	10/25/21	10/28/21		0006327601	N
2					142.84	1-01-28-370-095			B	Recreation: Maintenance Agreement	R	10/25/21	10/28/21		0006327600	N
3					257.27	1-01-28-370-095			B	Recreation: Maintenance Agreement	R	10/25/21	10/28/21		0006327599	N
	Vendor Total:				552.95											
1801.95					1,801.95											
DESC005	Jesco, Inc.															
21-02348	10/22/21 truck#15 - sweeper parts															
1	truck#15 - sweeper parts				397.61	1-01-26-315-100			B	Vehicle Mainten Maintenance of Motor Veh	R	10/22/21	10/28/21		JE5356	N
2	truck#15 - sweeper parts				10.72	1-01-26-315-100			B	Vehicle Mainten Maintenance of Motor Veh	R	10/22/21	10/28/21		JE5356	N

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Vendor # Name	PO #	PO Date	Description	Amount	Contract Charge Account	PO Type	Acct Type Description	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099 Excl
JESCO005 Jesco, Inc. Continued													
21-02348 10/22/21 truck#15 - sweeper parts Continued													
			3 truck#15 - sweeper parts	17.25	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh R		10/22/21	10/28/21		JES356	N
			4 truck#15 - sweeper parts	3.26	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh R		10/22/21	10/28/21		JES356	N
				428.84									
			Vendor Total:	428.84									
KOBRA005 Kobra Electric, LLC													
21-02170 10/04/21 WALKWAY LIGHTING-													
			1 WALKWAY LIGHTING-	125.00	1-01-26-310-035		B B&G: Building & Facility Repair	R	10/04/21	10/28/21		3442	N
21-02181 10/04/21 91 SO SHORE DRIVE													
			1 91 SO SHORE DRIVE	1,076.64	1-01-26-310-035		B B&G: Building & Facility Repair	R	10/04/21	10/28/21		3240	N
21-02285 10/14/21 EXIT LIGHTS- PER INSPECTIONS													
			1 EXIT LIGHTS- PER INSPECTIONS	773.77	1-01-26-310-035		B B&G: Building & Facility Repair	R	10/14/21	10/28/21		3462	N
			Vendor Total:	1,975.41									
L0000010 Lerch, Vinci & Higgins, LLP													
21-02425 10/28/21 Out of Pocket Costs-2020 Audit 20-00023 C													
			1 Out of Pocket Costs-2020 Audit	309.00	0-01-20-135-299		B Audit: Miscellaneous Other Expenses	R	01/01/20	10/28/21		45797	N
			Vendor Total:	309.00									
M0000003 MGL Forms - Systems, LLC													
21-01619 07/28/21 Office Supplies													
			1 2022 Dog tags (300)	318.00	1-01-20-120-145		B Clerk: Office Supplies	R	07/28/21	10/28/21		183627	N
			2 2022 Cat Tags (100)	172.00	1-01-20-120-145		B Clerk: Office Supplies	R	07/28/21	10/28/21		183627	N
				490.00									
			Vendor Total:	490.00									
M0000011 MicroSystems-nj.com, LLC													
21-02305 10/15/21 '21 online access-Tax Assessor													
			1 '21 online access-Tax Assessor	1,440.00	1-01-20-150-150		B Assessor: Other Contractual Services	R	10/15/21	10/28/21		14958	N
			2 '21 online access-Tax Assessor	1,440.00	1-01-20-150-150		B Assessor: Other Contractual Services	R	10/15/21	10/28/21		14941	N

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Vendor # Name	PO #	PO Date	Description	Amount	Contract	PO Type	Acct Type Description	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099 Excl
RENTA005 Rent A Fence, Inc.													
	21-02272	10/13/21	123 SOUTH BROADWAY - FENCING										
	1		123 SOUTH BROADWAY- FENCING	2,368.00	1-01-26-310-299		B B&G: Miscellaneous Other Expenses	R	10/13/21	10/28/21		E018171-IN	N
	2		Panel Stands	0.00	1-01-26-310-299		B B&G: Miscellaneous Other Expenses	R	10/13/21	10/28/21		E018171-IN	N
	3		Sandbags	0.00	1-01-26-310-299		B B&G: Miscellaneous Other Expenses	R	10/13/21	10/28/21		E018171-IN	N
				<u>2,368.00</u>									
			Vendor Total:	2,368.00									
SG000030 State of New Jersey													
	21-02320	10/18/21	Catastrophic Illness Fund										
	1		Catastrophic Illness Fund	664.44	1-01-20-130-299		B Finance: Miscellaneous Other Expenses	R	10/18/21	10/28/21		2020	N
	2			119.83	1-01-20-130-299		B Finance: Miscellaneous Other Expenses	R	10/18/21	10/28/21		2020	N
	3		Catastrophic Illness	172.50	1-01-20-130-299		B Finance: Miscellaneous Other Expenses	R	10/18/21	10/28/21		2020	N
				<u>956.77</u>									
			Vendor Total:	956.77									
STAHL005 James E. Stahl Esq.													
	21-02275	10/13/21	October Retainer 2021		21-00014	C							
	1		October Retainer 2021	1,000.00	1-01-21-180-195		B Planning Board: Prof Consultant & Spec	R	04/12/21	10/28/21		10-2021	N
			Vendor Total:	1,000.00									
T0000003 The Hose Shop, Inc.													
	21-02281	10/13/21	TRUCK#16 - SEALS		21-00010	C							
	1		TRUCK#16 - SEALS	6.86	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh	R	01/06/21	10/28/21		00221049	N
	21-02357	10/25/21	salter fittings		21-00010	C							
	1		salter fittings	41.89	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh	R	01/06/21	10/28/21		00221284	N
			Vendor Total:	48.75									
TACTI005 Tactical Public Safety, LLC.													
	21-02089	09/23/21	Batteries for OEM radios										
	1		Batteries for OEM radios	228.00	1-01-25-252-299		B OEM: Miscellaneous Other Expenses	R	09/23/21	10/28/21		21-435	N

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Vendor #	Name	PO #	PO Date	Description	Amount	Contract Charge Account	PO Type	Acct Type Description	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099 Excl
TACTI005	Tactical Public Safety, LLC.					Continued								
21-02089		09/23/21		Batteries for OEM radios	399.00	1-01-25-252-299		B OEM: Miscellaneous Other Expenses	R	09/23/21	10/28/21		21-435	N
					627.00									
	Vendor Total:				627.00									
TAYL0005	Taylor Communications, Inc.													
21-01928		09/08/21		Court Mailer Notices	336.00	1-01-43-490-190		B Court: Printing & Binding	R	09/08/21	10/28/21		V9375160	N
	1 Court Mailer Notices													
	Vendor Total:				336.00									
V0000001	Verizon													
21-02339		10/21/21	10/6/2021	732-525-0192										
	1 10/6/2021 732-525-0192				209.34	1-01-31-430-240		B Utilities - Telephone	R	10/21/21	10/28/21			N
21-02388		10/25/21	10/15/21	250-717-101-0001-94										
	1 10/15/21 250-717-101-0001-94				1,676.26	1-01-31-430-240		B Utilities - Telephone	R	10/25/21	10/28/21			N
21-02389		10/25/21	10/15/21	450-717-047-0001-08										
	1 10/15/21 450-717-047-0001-08				6.55	1-01-31-430-240		B Utilities - Telephone	R	10/25/21	10/28/21			N
	Vendor Total:				1,892.15									
V0000002	Verizon wireless													
21-02387		10/25/21	Sept'21	inv.9890634761		21-00015 c								
	1 Sept'21 inv.9890634761				1,857.07	1-01-31-430-240		B Utilities - Telephone	R	10/25/21	10/28/21		9890634761	N
	Vendor Total:				1,857.07									
VERI2020	Verizon - broadband													
21-02310		10/15/21	10/10/21	656-711-378-0001-77										
	1 10/10/21 656-711-378-0001-77				84.99	1-01-31-430-245		B Utilities - Internet	R	10/15/21	10/28/21			N
21-02333		10/21/21	10/14/21	756-745-729-0001-96										
	1 10/14/21 756-745-729-0001-96				69.00	1-01-31-430-245		B Utilities - Internet	R	10/21/21	10/28/21			N

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Vendor #	Name	PO #	PO Date	Description	Amount	Contract Charge Account	PO Type	Acct Type Description	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099 Exc
VERIZ020	Verizon - broadband					Continued								
21-02334	10/21/21	10/8/21	656-680-576-0001-33											
	1	10/8/21	656-680-576-0001-33	89.00	1-01-31-430-245		B Utilities - Internet	R	10/21/21	10/28/21				N
21-02335	10/21/21	10/6/21	656-679-131-0001-09											
	1	10/6/21	656-679-131-0001-09	89.00	1-01-31-430-245		B Utilities - Internet	R	10/21/21	10/28/21				N
21-02336	10/21/21	10/8/21	556-681-945-0001-10											
	1	10/8/21	556-681-945-0001-10	99.66	1-01-31-430-245		B Utilities - Internet	R	10/21/21	10/28/21				N
21-02337	10/21/21	10/10/21	356-712-508-0001-55											
	1	10/10/21	356-712-508-0001-55	84.99	1-01-31-430-245		B Utilities - Internet	R	10/21/21	10/28/21				N
21-02338	10/21/21	10/7/21	656-679-478-0001-59											
	1	10/7/21	656-679-478-0001-59	89.00	1-01-31-430-245		B Utilities - Internet	R	10/21/21	10/28/21				N
21-02343	10/21/21	9/16&10/16	356-685-844-0001-72											
	1	9/16&10/16	356-685-844-0001-72	148.66	1-01-31-430-245		B Utilities - Internet	R	10/21/21	10/28/21				N
21-02390	10/25/21	10/15/21	156-687-583-0001-34											
	1	10/15/21	156-687-583-0001-34	79.66	1-01-31-430-245		B Utilities - Internet	R	10/25/21	10/28/21				N
21-02391	10/25/21	9/17-10/21	156-663-800-0001-99											
	1	9/17-10/21	156-663-800-0001-99	119.00	1-01-31-430-245		B Utilities - Internet	R	10/25/21	10/28/21				N
	2	9/17-10/21	156-663-800-0001-99	119.00	1-01-31-430-245		B Utilities - Internet	R	10/25/21	10/28/21				N
				238.00										
21-02392	10/25/21	10/15/21	756-694-186-0001-35											
	1	10/15/21	756-694-186-0001-35	69.00	1-01-31-430-245		B Utilities - Internet	R	10/25/21	10/28/21				N
21-02427	10/28/21	10/20/21	756-698-143-0001-04											
	1	10/20/21	756-698-143-0001-04	69.00	1-01-31-430-245		B Utilities - Internet	R	10/28/21	10/28/21				N
21-02428	10/28/21	10/20/21	756-698-687-0001-63											
	1	10/20/21	756-698-687-0001-63	79.66	1-01-31-430-245		B Utilities - Internet	R	10/28/21	10/28/21				N
21-02429	10/28/21	10/21/21	556-699-343-0001-93											
	1	10/21/21	556-699-343-0001-93	69.00	1-01-31-430-245		B Utilities - Internet	R	10/28/21	10/28/21				N

Vendor #	Name	PO #	PO Date	Description	Amount	Contract Charge Account	PO Type	Acct Type Description	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099 Excl
VERIZ020	Verizon - broadband			Continued										
21-02430	10/28/21 9/21&10/21	656-697-904-0001-89												
	1 9/21&10/21	656-697-904-0001-89	138.00	1-01-31-430-245		B Utilities - Internet	R	10/28/21	10/28/21					N
	Vendor Total:		1,496.62											
w0000017	w.B. Mason													
21-02238	10/07/21	Court Supplies												
	1	Whisper Quiet Clock	15.76	1-01-43-490-145		B Court: Office Supplies	R	10/07/21	10/28/21			224251856		N
	2	Cork Board	32.71	1-01-43-490-145		B Court: Office Supplies	R	10/07/21	10/28/21			22451856		N
	3	Clear Sheet Protectors	7.09	1-01-43-490-145		B Court: Office Supplies	R	10/07/21	10/28/21			22451856		N
	4	Flexi-View Binder	15.84	1-01-43-490-145		B Court: Office Supplies	R	10/07/21	10/28/21			22451856		N
	5	Ruled Desk pad 2022	13.41	1-01-43-490-145		B Court: Office Supplies	R	10/07/21	10/28/21			22451856		N
			84.81											
21-02245	10/12/21	office supplies-senior/rec												
	1	OFFICE SUPPLIES	519.98	1-01-28-371-145		B Senior Citizens: Office Supplies	R	10/12/21	10/28/21			224251987		N
	2	HEW21102A	125.98	1-01-28-371-145		B Senior Citizens: Office Supplies	R	10/12/21	10/28/21			224211954		N
	3	BRTPDT400AD	38.69	1-01-28-371-145		B Senior Citizens: Office Supplies	R	10/12/21	10/28/21			224211954		N
	4	KTKCS270B	35.99	1-01-28-371-145		B Senior Citizens: Office Supplies	R	10/12/21	10/28/21			224211954		N
	5	BRTTZE2312PK	33.10	1-01-28-371-145		B Senior Citizens: Office Supplies	R	10/12/21	10/28/21			224211954		N
	6	MM209024A	3.96	1-01-28-371-145		B Senior Citizens: Office Supplies	R	10/12/21	10/28/21			224211954		N
	7	SW166402	18.11	1-01-28-371-145		B Senior Citizens: Office Supplies	R	10/12/21	10/28/21			224211954		N
	8	AAGSK2400	22.35	1-01-28-371-145		B Senior Citizens: Office Supplies	R	10/12/21	10/28/21			224251987		N
	9	ALEFAN163.	0.00	1-01-28-371-145		B Senior Citizens: Office Supplies	R	10/12/21	10/28/21			224211954		N
			798.16											
21-02314	10/15/21	Office Supplies												
	1	Desk Calenders	8.94	1-01-20-120-145		B Clerk: Office Supplies	R	10/15/21	10/28/21			224412058		N
	2	Wall calendar-D.Brooks	16.53	1-01-20-120-145		B Clerk: Office Supplies	R	10/15/21	10/28/21			224412058		N
	3	Approved Stamp	6.65	1-01-20-120-145		B Clerk: Office Supplies	R	10/15/21	10/28/21			224412058		N
	4	Correction Tape/10 pk	12.23	1-01-20-120-145		B Clerk: Office Supplies	R	10/15/21	10/28/21			224412058		N
	5	Toner-Magenta	74.62	1-01-20-120-145		B Clerk: Office Supplies	R	10/15/21	10/28/21			224412058		N
	6	Shipping Tape 2'x 800'	2.62	1-01-20-120-145		B Clerk: Office Supplies	R	10/15/21	10/28/21			224412058		N
			121.59											
21-02318	10/18/21	Office Supplies-Fiannce/Payrol												
	1	AAGSK2400- Desk Calander	8.94	1-01-20-130-299		B Finance: Miscellaneous Other Expenses	R	10/18/21	10/28/21			224326832		N

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w0000017	w.B. Mason					Continued									
21-02318	10/18/21	Office Supplies-Fiannce/Payrol		Continued											
2	HOD3640-3	Month Wall Calendar	8.92	1-01-20-130-299		B Finance: Miscellaneous Other Expenses		R	10/18/21	10/28/21		224326832		N	
3	HWLHCE322V-	Space Heater	119.98	1-01-20-130-299		B Finance: Miscellaneous Other Expenses		R	10/18/21	10/28/21		224326832		N	
			137.84												
21-02327	10/18/21	Office Supplies													
1	Catalog Envelope		89.97	1-01-43-490-145		B Court: Office Supplies		R	10/18/21	10/28/21		224412816		N	
2	Yearly Wall Calendar		11.33	1-01-43-490-145		B Court: Office Supplies		R	10/18/21	10/28/21		224412816		N	
			101.30												
Vendor Total:			1,243.70												

Total Purchase Orders: 98 Total P.O. Line Items: 165 Total List Amount: 1,484,437.78 Total Void Amount: 0.00

Totals by Year-Fund Fund Description	Fund	Budget Rcvd	Budget Held	Budget Total	Revenue Total	G/L Total	Total
CURRENT FUND	0-01	1,594.24	0.00	1,594.24	0.00	0.00	1,594.24
CURRENT FUND	1-01	1,347,564.78	0.00	1,347,564.78	0.00	0.00	1,347,564.78
CAPITAL FUND	C-04	79,077.09	0.00	79,077.09	0.00	0.00	79,077.09
GRANT FUND	G-02	56,201.67	0.00	56,201.67	0.00	0.00	56,201.67
Total of All Funds:		<u>1,484,437.78</u>	<u>0.00</u>	<u>1,484,437.78</u>	<u>0.00</u>	<u>0.00</u>	<u>1,484,437.78</u>



City of South Amboy

140 North Broadway • South Amboy, New Jersey 08879

Phone: (732) 727-4600 Fax: (732) 727-6139

October 1, 2021

Deborah Brooks, City Clerk
City of South Amboy
140 North Broadway
South Amboy, New Jersey 08879

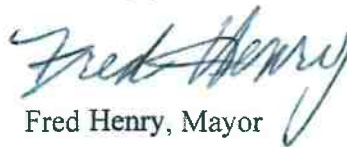
Re: Manhattan Beach Phase 1 Urban Renewal LLC (the "Entity")

Dear Ms. Brooks:

I reviewed the application, proposed financial agreement and related documents submitted by the Entity for the proposed redevelopment of the properties identified as Block 161.02, Lots 20, 23, and 24 on the current tax maps of the City (the "Project Area"). The Entity, the designated redeveloper of the Project Area, proposes to construct thereon a residential project consisting of approximately 486 residential units, along with the undertaking of certain residential units affordable to households of low and moderate income (the "Project").

I believe that this Project is a desirable and needed improvement in the City. Therefore, I recommend that the application be favorably considered by the City Council for the Entity, provided that all legal prerequisites have been met.

Sincerely yours,



Fred Henry, Mayor

ORD 2021-19

ORDINANCE OF THE CITY OF SOUTH AMBOY, COUNTY OF MIDDLESEX, NEW JERSEY APPROVING APPLICATION FOR A LONG TERM TAX EXEMPTION AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH MANHATTAN BEACH PHASE 1 URBAN RENEWAL LLC

WHEREAS, the City is authorized pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”) to determine whether certain parcels of land within the City constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

WHEREAS, by resolutions duly adopted, the City Council designated certain properties within the City, including without limitation, the parcels currently identified on the tax maps of the City as Block 161.02, Lot 20, 23, 24, 24.01, 25, 90, 90.01, 6.02 and a portion of Lot 20.01 (the “**Redevelopment Area**”) as an “area in need of redevelopment” pursuant to the Redevelopment Law and the redevelopment laws which preceded it; and

WHEREAS, in accordance with the Redevelopment Law, and by ordinances duly adopted, the City Council adopted various redevelopment plans for the Redevelopment Area; and

WHEREAS, the South Amboy Redevelopment Agency (“**SARA**”), which was established as an instrumentality of the City, is responsible for implementing redevelopment plans and carrying out redevelopment projects in the City; and

WHEREAS, on June 3, 2021, SARA adopted a resolution designating Manhattan Beach Phase 1 Urban Renewal LLC (the “**Entity**”) as the “redeveloper”, as that term is defined under the Redevelopment Law, of the Project Area; and

WHEREAS, the City and the Entity will enter into a Redevelopment Agreement (the “**Redevelopment Agreement**”), pursuant to which the Entity will redevelop the Project Area by constructing thereon a multi-phased project totaling approximately 486 residential units, including: approximately 223 residential units in Phase 1 (“**Phase 1**”); approximately 167 residential units in Phase 2 (“**Phase 2**”); and approximately 96 residential units in Phase 3 (“**Phase 3**” and, together with Phase 1 and Phase 2, the “**Project**”); and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful Project, the Entity submitted to the Mayor of the City (the “**Mayor**”) an application (the “**Application**”), which is on file with the City Clerk, seeking tax exemption in connection with the Project pursuant to the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.* (the “**Long Term Tax Exemption Law**”), in exchange for which the Entity proposes to make payments to the City in lieu of taxes; and

WHEREAS, the Entity also submitted to the Mayor a form of financial agreement (the “**Financial Agreement**”), a copy of which is attached as Exhibit 19 to the Application (including

separate forms for each above the above-described Phases), establishing the rights, responsibilities and obligations of the Entity; and

WHEREAS, the Mayor submitted the Application and Financial Agreement to the City Council with his recommendation for approval, a copy of which recommendation is on file with the City Clerk; and

WHEREAS, the City Council has determined that the Project represents an undertaking permitted by the Long Term Tax Exemption Law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH AMBOY, COUNTY OF MIDDLESEX, NEW JERSEY AS FOLLOWS:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Application and Financial Agreement are hereby approved.
3. The Mayor is hereby authorized to execute the Financial Agreement substantially in the form attached as Exhibit 19 to the Application, subject to minor modification or revision, as deemed necessary and appropriate after consultation with counsel.
4. The City hereby consents to the transfer of ownership, by the Entity to urban renewal entities affiliated with the Entity, of various portions of the Property for the purpose of undertaking Phase 1, Phase 2 or Phase 3, subject to the execution, by such transferee urban renewal entities, of written agreements in which such urban renewal entities fully assume all of the obligations of the Entity set forth in the Financial Agreement applicable to the respective Phase.
5. Upon such transfer described above, the Mayor is hereby authorized, without the need for further action, to execute conformed versions of the Financial Agreement, substantially in the form attached as Exhibit 19 to the Application, by and between the City and the respective urban renewal entity(ies), each of which will cover and apply to the respective Phase and respective portion of the Property.
6. If any part of this ordinance shall be deemed invalid, such part shall be severed and the invalidity thereof shall not affect the remaining parts of this ordinance.
7. This ordinance shall take effect in accordance with applicable law.

FINANCIAL AGREEMENT

THIS FINANCIAL AGREEMENT (hereinafter this “**Agreement**”), made this ____ day of _____, 2021, (the “**Effective Date**”) by and between Manhattan Beach Phase I Urban Renewal LLC, an urban renewal entity qualified to do business under the provisions of the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.*, as amended and supplemented (the “**Long Term Tax Exemption Law**”), with offices at 32 Mount Kemble Ave, Morristown, New Jersey 07960 (the “**Entity**” or “**Urban Renewal Entity**”) and the CITY OF SOUTH AMBOY, a municipal corporation in the County of Middlesex and the State of New Jersey (the “**City**”, and together with the Urban Renewal Entity, the “**Parties**” or “**Party**”).

WITNESSETH:

WHEREAS, the City is authorized pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”) to determine whether certain parcels of land within the City constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

WHEREAS, by resolutions duly adopted, the City Council designated certain properties within the City, including without limitation, the parcels currently identified on the tax maps of the City as Block 161.02, Lot 20, 23, 24, 24.01, 25, 90, 90.01, 6.02 and a portion of Lot 20.01 (the “**Redevelopment Area**”) as an “area in need of redevelopment” pursuant to the Redevelopment Law and the redevelopment laws which preceded it; and

WHEREAS, in accordance with the Redevelopment Law, and by ordinances duly adopted, the City Council adopted various redevelopment plans for the Redevelopment Area; and

WHEREAS, the South Amboy Redevelopment Agency (“**SARA**”) may exercise all powers, duties and functions relating to redevelopment in the manner of a redevelopment entity under the Redevelopment Law, which powers include contracting with redevelopers for the planning, replanning, construction, or undertaking of any project or redevelopment work under N.J.S.A. 40A:12A-8.f; and

WHEREAS, affiliates of the Urban Renewal Entity have extensive experience in real estate development, remediation, leasing, and construction, especially involving property in designated redevelopment areas as well as the financial capacity and wherewithal sufficient to support the redevelopment of the Redevelopment Area; and

WHEREAS, on December 17, 2014, by Ordinance No. 13-2014, the City Council adopted the Beach Club District Redevelopment Plan (the “**Original Redevelopment Plan**”), which Original Redevelopment Plan superseded and replaced the existing redevelopment plans as same related to the parcels comprising the Beach Club District Properties, and on December 19, 2018, by Ordinance No. 18-2018, the City Council amended the Original Redevelopment Plan (collectively, the “**Redevelopment Plan**”), containing development standards for, among others, that portion of the Redevelopment Area comprised of Block 161.02, Lots 20, 23, 24, and 24.01 (the “**Property**,” as more particularly described in Exhibit A hereto); and

WHEREAS, SARA has previously duly designated Manhattan Beach Club Street, LLC (the "**Master Redeveloper**") as master redeveloper of the Redevelopment Area, and the City and SARA have entered into that certain tri-party Amended and Restated Redevelopment Agreement with Master Redeveloper (the "**Master Redevelopment Agreement**") relating thereto; and

WHEREAS, the Urban Renewal Entity, through its affiliates, has contracted with affiliates of the Master Redeveloper for the acquisition of Block 161.02, Lots 20 and 23, and with the current owner of Block 161.02, Lots 24 and 24.01, to acquire the Property; and

WHEREAS, on the date hereof, SARA and the Entity entered into that certain Redevelopment Agreement (the "**Redevelopment Agreement**") to redevelop the Property by constructing thereon a multi-phased project totaling approximately 486 residential rental units, including: approximately 223 residential rental units in Phase 1 ("**Phase 1**"); approximately 167 residential rental units in Phase 2 ("**Phase 2**"); and approximately 96 residential rental units in Phase 3 ("**Phase 3**" and, together with the Phase 1 and Phase 2, the "**Project**"); and

WHEREAS, the Urban Renewal Entity submitted an application to the City for approval of a long term tax exemption for the Project pursuant to the Long Term Tax Exemption Law, which application is attached hereto as Exhibit B (the "**Application**"), in exchange for which the Urban Renewal Entity will pay to the City an Annual Service Charge (defined below); and

WHEREAS, on [INSERT], 2021, the City Council adopted an ordinance, entitled, "Ordinance of the City of South Amboy, County of Middlesex, New Jersey Approving Application for a Long Term Tax Exemption and Authorizing the Execution of a Financial Agreement with Manhattan Beach Phase I Urban Renewal LLC", approving the application and authorizing the execution of this Agreement, a copy of which is attached hereto as Exhibit C (the "**Ordinance**"); and

WHEREAS, the City made the following findings with respect to the Project:

A. **Relative Benefits of the Project:**

The Property is a **former industrial site**, formerly owned by SARA, which is currently vacant and underutilized. The Project will redevelop the Property with approximately 486 residential units and supporting amenities. The Project will create approximately 750-1,000 construction jobs and approximately 6 permanent jobs. The Project will generate significant amounts of new (otherwise unavailable) municipal revenues through the Annual Service Charge and water/sewer fees.

B. **Assessment of the Importance of the tax exemption in obtaining development of the Project and influencing the locational decisions of probable occupants:**

- (i) The relative stability and predictability of the Annual Service Charge will allow the owners and, by extension, the occupants, of the Project to stabilize their expenses, which will ensure the likelihood of the success of the Project

and ensure that it will have a positive impact on the surrounding area. Further, the relative stability and predictability of the Annual Service Charge makes the Project more attractive to investors and lenders needed to finance the Project. In light of market conditions, economic factors and development costs impacting this Project, it is not financially feasible to undertake the development of this Project in the absence of the tax exemption. In other words, without the incentive the tax exemption, it is unlikely that the Project would be undertaken. Without the Project, the benefits described above would not be realized.

- (ii) The tax exemption permits the development of the Project in an area that cannot otherwise be feasibly developed by reducing the expenses associated with the ongoing operation of the completed Project. Reduced expenses allow for more competitive rents. As a result, the locational decisions of the probable tenants will be influenced positively by the tax exemption.

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

ARTICLE I

GENERAL PROVISIONS

SECTION 1.01 Governing Law.

This Agreement shall be governed by the provisions of the Long Term Tax Exemption Law, the Redevelopment Law, the Ordinance, and all other Applicable Law. It is expressly understood and agreed that the City expressly relies upon the facts, data, and representations contained in the Application in granting this tax exemption.

SECTION 1.02 General Definitions.

The following terms shall have the meanings assigned to such term in the preambles hereof:

Agreement
Application
City
City Council
Entity/Urban Renewal Entity
Effective Date
Long Term Tax Exemption Law
Master Redeveloper
Master Redevelopment Agreement
Ordinance
Original Redevelopment Plan
Phase 1
Phase 2
Phase 3
Planning Board
Project
Property
Redevelopment Agreement
Redevelopment Area
Redevelopment Law
Redevelopment Plan
SARA

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

Administrative Fee – The annual fee paid to the City by the Entity, as set forth in Section 4.06 of the Agreement.

Affiliate – With respect to any person or entity, any other person or entity directly or indirectly Controlling or Controlled by, or under direct common Control with, such person or entity.

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

Allowable Profit Rate - The greater of (a) twelve percent (12%) or (b) the percentage per annum arrived at by adding one and one-quarter percent (1¼%) 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 (x) twelve percent (12%) or (y) the percentage per annum arrived at by adding one and one-quarter percent (1¼%) to the interest rate per annum that the City determines to be the prevailing rate of mortgage financing on comparable improvements in the County. The provisions of *N.J.S.A.* 40A:20-3(b) are incorporated herein by reference.

Annual Gross Revenue – Pursuant to *N.J.S.A.* 40A:20-3(a), the annual gross revenue shall be calculated as one hundred percent (100%) of the rental charges generated from the residential units comprising the Project or Phase, as applicable, and one hundred percent (100%) of the application fees, pet fees, parking fees, floor or view premiums and any other charges that may be collected from tenants of the Project or such Phase. Annual Gross Revenue shall exclude, without limitation, any gain realized by the Entity on the sale of the Project or Phase therein, the proceeds of any condemnation or casualty awards, insurance proceeds, proceeds of any financing or refinancing, any reimbursement to the Entity or any Affiliate of the Entity for site development costs allocable to an Affiliate, and proceeds from any disposition of a partner or partner's equity interest in the Entity.

Annual Service Charge - The amount the Entity has agreed to pay the City, or its designee, pursuant to Article IV for municipal services supplied to the Project or a Phase, as applicable, which sum is in lieu of any taxes on the Improvements, which amount shall be pro-rated in the year in which the Annual Service Charge begins and the year in which the Annual Service Charge terminates.

Annual Service Charge Start Date – The Annual Service Charge Start Date for a given Phase shall be the date of the issuance of the Certificate of Occupancy for the first residential unit within the Phase.

Applicable Law – All federal, State and local laws, ordinances, approvals, rules, regulations and requirements applicable thereto including, but not limited to, the Redevelopment Law and the Long Term Tax Exemption Law, as applicable, relevant construction codes including construction codes governing access for persons with disabilities, and such zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations thereunder, including all applicable environmental laws, and applicable federal and State labor safety standards.

Auditor's Report - A complete financial statement outlining the financial status of the Project or Phase, as applicable (for a period of time as indicated by context), which shall also include a certification of Total Project Cost and clear computation of Net Profit as provided in *N.J.S.A. 40A:20-3(c)*. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles. 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.

Certificate of Occupancy - A temporary or permanent Certificate of Occupancy, as such term is defined in the New Jersey Administrative Code issued by the City authorizing occupancy of a building, in whole or in part, pursuant to *N.J.S.A. 52:27D-133*.

Clerk - The municipal clerk of the City.

Control - As used with respect to any person or entity, shall mean possession, directly or indirectly, of the power to direct or cause the direction of the management and operation of such person or entity, whether through the ownership of voting securities or by contract or other written agreement. The entity or individual(s) with the right to direct or cause the direction of the management and operation of the managing member of the Entity shall be deemed to have Control of the Entity.

County - The County of Middlesex.

County Share - The first five percent (5%) of the Annual Service Charge, which shall be payable to the County in accordance with the provisions of *N.J.S.A. 40A:20-12*.

Default - A breach or the failure of either Party to perform any obligation imposed upon such Party by the terms of this Agreement, or under Applicable Law, beyond any applicable grace or cure periods after written notice of such failure.

Default Notice - As defined in Section 15.02.

Financial Plan - The financial plan prepared pursuant to *N.J.S.A. 40A:20-8(e)* attached to the Application.

Improvements - Any building, structure or fixture constituting the Project, or any Phase or portion thereof, permanently affixed to the Land and to be constructed and exempt under this Agreement.

In Rem Tax Foreclosure - A summary proceeding by which the City may enforce the lien for taxes due and owing by a tax sale in accordance with the provisions of the In Rem Tax Foreclosure Act and Tax Sale Law.

In Rem Tax Foreclosure Act - *N.J.S.A. 54:5-104.29 et seq.*, as may be amended or supplemented from time to time.

Land – The real property, but not the Improvements, commonly known as portions of Block 161.02, Lots 20, 23 and 24 on the tax maps of the City, as more particularly described by the property description set forth in Exhibit A of this Agreement and to be exempt hereunder.

Land Taxes - The amount of taxes assessed on the value of the Land exclusive of the value of any Improvements related thereto, in accordance with Applicable Law, to the extent applicable.

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.

Material Conditions – As defined in Section 4.07.

Mayor - The mayor of the City.

Minimum Annual Service Charge – The total taxes levied against all real property constituting the Property, or with respect to any Phase, the portion of the Property located within such Phase, in the last full tax year in which the Property, or applicable portion, was subject to taxation. The Minimum Annual Service Charge shall be pro-rated on a monthly basis in the year in which the Annual Service Charge Start Date occurs and the year in which the Termination occurs.

Net Profit – The Annual Gross Revenue of the Entity pertaining to the Project, or applicable Phase, less all operating and non-operating expenses of the Entity, all determined in accordance with generally accepted accounting principles and the provisions of *N.J.S.A. 40A:20-3(c)*, which includes, but is not limited to, an annual amount sufficient to amortize (utilizing the straight line method-equal annual amounts) the Total Project Cost over the term of the abatement granted pursuant to this Agreement as well as all other expenses permitted under the provisions of *N.J.S.A. 40A:20-3(c)*.

Notice of Termination – As defined in Section 15.04.

Phase – Either Phase 1, Phase 2 or Phase 3, as the context may require.

Phase 1 URE – As defined in Section 8.01(B).

Phase 2 URE – As defined in Section 8.01(B).

Phase 3 URE – As defined in Section 8.01(B).

Secured Party – As defined in Section 8.03(B).

Security Arrangements – As defined in Section 8.03(B).

State – The State of New Jersey.

Tax Assessor – The City tax assessor.

Tax Collector – The City tax collector.

Tax Sale Law – *N.J.S.A. 54:5-1 et seq.*, as the same may be amended or supplemented from time to time.

Termination – Expiration of the term of this Agreement in accordance with Section 3.01 or any action or omission which by operation of the terms of this Agreement shall cause the Entity to relinquish or forfeit the tax exemption granted pursuant to this Agreement.

Total Project Cost – The total cost of construction of the Project, or applicable Phase, through the date a Certificate(s) of Occupancy is issued for the Project or Phase, as applicable, which categories of cost are as defined in *N.J.S.A. 40A:20-3(h)*. There shall be included in Total Project Cost the actual costs incurred to construct the Improvements which are specifically described in the Application.

Unit - Any one of the residential units that is a part of the Project or Phase, as applicable.

SECTION 1.03 Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

A. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before the date of delivery of this Agreement.

B. Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

C. Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations, limited liability companies and other legal entities, including public or governmental bodies, as well as natural persons.

D. Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

E. Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any person or Party hereunder shall not be unreasonably withheld, conditioned, or delayed.

F. All notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within a reasonable time, which shall not be less than ten (10) days nor more than twenty (20) days, unless the context dictates otherwise.

G. All exhibits referred to in this Agreement and attached hereto are incorporated herein and made part hereof.

SECTION 1.04 Reliance by City. It is expressly understood and agreed that the City has relied upon the facts and representations contained in the Application in granting the tax exemption described in this Agreement.

{End of Article I}

ARTICLE II **APPROVAL**

SECTION 2.01 Approval of Tax Exemption

The City hereby grants its approval for a tax exemption for the Project in accordance with the provisions of the Long Term Tax Exemption Law. Pursuant to the Ordinance, the Land and Improvements to be constructed and maintained by the Entity shall be exempt from taxation as provided for herein.

SECTION 2.02 Approval of the Entity

Approval is granted to the Entity based on its representation that its Certificate of Formation, attached to the Application as Exhibit 2 thereto, contains all requisite provisions of law, has been reviewed and approved by the Commissioner of the Department of Community Affairs, and has been filed with the Secretary of State, all in accordance with *N.J.S.A. 40A:20-5*.

SECTION 2.03 Improvements to be Constructed

The Entity represents that it will construct or cause the Improvements to be constructed in accordance with the Redevelopment Plan, the approved site plan for the Project, the Redevelopment Agreement, and the City's Master Plan.

SECTION 2.04 Construction Schedule

The Entity agrees to diligently undertake to complete construction of each of Phase 1, Phase 2 and Phase 3 in accordance with the Redevelopment Agreement.

SECTION 2.05 Ownership, Management and Control

The Entity represents that it, or an Affiliate, is the contract purchaser of the Property and that it will be the owner of same prior to the commencement of construction of the Project. The Entity expressly covenants, warrants and represents that upon completion, the Project, including all Land and Improvements, shall be used, managed and operated for the purposes set forth in the Application and in accordance with the Redevelopment Plan and all Applicable Law.

SECTION 2.06 Financial Plan

The Entity represents that the Improvements shall be financed substantially in accordance with the representations set forth in the Financial Plan. The Application and Financial Plan, made a part hereof, set forth the estimated Total Project Cost, anticipated amortization rate on Total Project Cost, the anticipated source of funds, the anticipated interest rates to be paid on construction financing, the anticipated source and amount of paid-in capital, the anticipated terms of any mortgage amortization, and anticipated rental schedules and lease terms, as applicable, in accordance with the Long Term Tax Exemption Law.

{End of Article II}

ARTICLE III

DURATION OF AGREEMENT

SECTION 3.01 Term

This Agreement is effective on the Effective Date. So long as there is compliance with the Applicable Law and this Agreement, it is understood and agreed by the Parties that this Agreement, including the obligation to pay the Annual Service Charge under Article IV and the tax exemption granted and referred to in Section 2.01, shall remain in effect until the earlier of (i) (A) with respect to Phase 1, thirty-five (35) years from the Effective Date, (B) with respect to Phase 2, forty (40) years from the Effective Date or (C) with respect to Phase 3, forty-five (45) years from the Effective Date or (ii) for each Phase, thirty (30) years from its respective Annual Service Charge Start Date. The tax exemption shall only be effective while the Project is owned by a corporation, association or other entity formed and operating under the Long Term Tax Exemption Law. Upon Termination, the tax exemption for the Project or applicable Phase shall expire, and the Land and Improvements shall thereafter be assessed and taxed according to the general laws applicable to other non-exempt property in the City. Upon Termination all restrictions and limitations upon the Entity shall terminate upon the Entity's rendering and the City's acceptance of its final accounting, pursuant to *N.J.S.A. 40A:20-12*. Notwithstanding the above, if the Redevelopment Agreement is terminated, this Agreement shall automatically, without the need for any further action, terminate with respect to any portion of the Project, or Phase thereof, not already completed.

SECTION 3.02 Date of Termination

Upon any Termination of the tax exemption, as described in Section 3.01, the date of such Termination shall be deemed to be the last day of the fiscal year of the Entity.

SECTION 3.03 Voluntary Termination by Entity

The Entity may at any time after the expiration of one year from the completion of the Project, or applicable Phase, notify the City that as of a certain date designated in the notice, it relinquishes its status under the Long Term Tax Exemption Law and that the Entity has obtained the consent of the Commissioner of the Department of Community Affairs. Upon Termination of the Agreement, all restrictions and limitations upon the Entity shall terminate upon the Entity's rendering and the City's acceptance of its final accounting, pursuant to *N.J.S.A. 40A:20-12*.

{End of Article III}

ARTICLE IV

ANNUAL SERVICE CHARGE

SECTION 4.01 Annual Service Charge Consent

The Entity hereby consents and agrees to the amount of Annual Service Charge and to the liens described in this Agreement, and the Entity shall not contest the validity or amount of any such lawfully imposed lien. Notwithstanding anything herein to the contrary, the Entity's obligation to pay the Annual Service Charge shall be absolute and unconditional and shall not be subject to any defense, set-off, recoupment or counterclaim under any circumstances, including without limitation any loss of the status of the Entity as an urban renewal entity qualified under and as defined in the Long Term Tax Exemption Law, or any violation by the City of any provisions of this Agreement. The Entity's remedies shall be limited to those specifically set forth herein and otherwise provided by Applicable Law.

SECTION 4.02 Payment of Annual Service Charge

A. In consideration of the tax exemption, the Entity shall make payment of the Annual Service Charge commencing on the Annual Service Charge Start Date.

B. Payment of the Annual Service Charge shall be made to the City on a quarterly basis on February 1, May 1, August 1, and November 1 after the Annual Service Charge Start Date in accordance with the City's tax collection schedule, subject, nevertheless, to adjustment for over or underpayment within ninety (90) days after the close of each calendar year. The obligation to pay the Annual Service Charge shall continue until the Termination of the Agreement. The City shall issue the Entity bills for the Annual Service Charge in a manner generally consistent with the manner of its billing of ad valorem real estate tax payments on other property in the City.

C. In the event that the Entity fails to timely pay the Annual Service Charge or any installment thereof, the amount past due shall bear interest at the highest rate of interest permitted under the State law in the case of unpaid taxes or tax liens on the Property and Land until paid.

D. In accordance with the Long Term Tax Exemption Law, specifically *N.J.S.A. 40A:20-12*, in the event of any change in the tax-exemption status as provided herein during any tax year, including but not limited to any Termination, the procedure for the apportionment of any taxes and/or Annual Service Charge, as the case may be, shall be the same as in the case of other changes in tax exemption status to any other property located within the City during the tax year, in accordance with Applicable Law.

SECTION 4.03 Annual Service Charge Amount

Pursuant to *N.J.S.A. 40A:20-12*, the Annual Service Charge shall be an amount equal to:

A. In connection with Phase 1, the greater of: (a) (i) 10.5% of the Annual Gross Revenue for the first ten years after the Annual Service Charge Start Date; (ii) 12% of the Annual

Gross Revenue for years 11-20 after the Annual Service Charge Start Date; and (iii) 13% of the Annual Gross Revenue for the years 21-30 after the Annual Service Charge Start Date or (b) the Minimum Annual Service Charge; provided, however, that in the event the Annual Gross Revenue realized by Phase 1 in a given year exceeds the amount for such year set forth on Exhibit D-1, the Annual Service Charge for such year, and only for such year, shall increase by 1% of Annual Gross Revenue.

B. In connection with Phase 2, the greater of: (a) (i) 11% of the Annual Gross Revenue for the first ten years after the Annual Service Charge Start Date; (ii) 12.5% of the Annual Gross Revenue for years 11-20 after the Annual Service Charge Start Date; and (iii) 13.5% of the Annual Gross Revenue for the years 21-30 after the Annual Service Charge Start Date or (b) the Minimum Annual Service Charge; provided, however, that in the event the Annual Gross Revenue realized by Phase 2 in a given year exceeds the amount for such year set forth on Exhibit D-2, the Annual Service Charge for such year, and only for such year, shall increase by 1% of Annual Gross Revenue.

C. In connection with Phase 3, the greater of: (a) (i) 11.5% of the Annual Gross Revenue for the first ten years after the Annual Service Charge Start Date; (ii) 13% of the Annual Gross Revenue for years 11-20 after the Annual Service Charge Start Date; and (iii) 14% of the Annual Gross Revenue for the years 21-30 after the Annual Service Charge Start Date or (b) the Minimum Annual Service Charge; provided, however, that in the event the Annual Gross Revenue realized by Phase 3 in a given year exceeds the amount for such year set forth on Exhibit D-3, the Annual Service Charge for such year, and only for such year, shall increase by 1% of Annual Gross Revenue.

D. Notwithstanding the provisions of the Long Term Tax Exemption Law or any provision of the Agreement to the contrary, including Section 4.04 herein, the Annual Service Charge shall never be reduced below the Minimum Annual Service Charge through any tax appeal on the Land and/or Improvements or any other legal proceeding regarding the Project during the period that this Agreement is in force and effect.

SECTION 4.04 Land Taxes and Credits, Reformation of Annual Service Charge

A. In the event the exemption of the Land authorized under *N.J.S.A. 40A:20-12* is invalidated by a court of competent jurisdiction, the Parties agree that this Agreement shall remain valid and in full force and effect, and shall be reformed to provide that Land Taxes are assessed on the Property. In such event, the Entity will be required to make payment of both the Annual Service Charge and the Land Tax Payments, and the payment for Land Taxes shall be applied as a credit against the Annual Service Charge for the subsequent year. The Entity is required to pay the full Land Tax Payments in any given year, and no credits will be applied against the Annual Service Charge for partial payment of the Land Taxes, where delinquency extends beyond the applicable cure period.

B. For all time periods during which this Agreement is in effect, the Land shall be assessed without regard to any improvements or increase in value to the Land because of the Improvements or any approvals relating thereto.

C. The Entity's failure to make the requisite Annual Service Charge payment and/or Land Tax Payment in a timely manner shall constitute a violation and breach of this Agreement. The City shall, among its other remedies, have the right to proceed against the Property pursuant to the Tax Sale Law and/or may declare a Default under this Agreement upon sixty (60) days written notice to the Entity.

SECTION 4.05 Schedule of Staged Adjustments to Annual Service Charge

Pursuant to *N.J.S.A. 40A:20-12(b)*, the Annual Service Charge shall be adjusted as follows:

A. **Stage One.** Commencing on the Annual Service Charge Start Date through the 8th year of the Agreement, the Annual Service Charge shall be the amount established in accordance with Section 4.03 of the Agreement.

B. **Stage Two.** From the 9th year through the 14th year of the Agreement, the Annual Service Charge shall be the amount established in accordance with Section 4.03 or 4.04 of the Agreement, as applicable, or 20% of the amount of the taxes otherwise due on the Land and Improvements, whichever is greater.

C. **Stage Three.** From the 15th year through the 20th year of the Agreement, the Annual Service Charge shall be the amount established in accordance with Section 4.03 or 4.04 of the Agreement, as applicable, or 40% of the amount of the taxes otherwise due on the Land and Improvements, whichever is greater.

D. **Stage Four.** From the 21st year through the 24th year of the Agreement, the Annual Service Charge shall be the amount established in accordance with Section 4.03 or 4.04 of the Agreement, as applicable, or 60% of the amount of the taxes otherwise due on the Land and Improvements, whichever is greater.

E. **Stage Five.** From the 25th year through the 30th year of the Agreement, the Annual Service Charge shall be the amount established in accordance with Section 4.03 or 4.04 of the Agreement, as applicable, or 80% of the amount of the taxes otherwise due on the Land and Improvements, whichever is greater.

SECTION 4.06 Administrative Fee

The Entity shall pay annually an administrative fee to the City in addition to the Annual Service Charge. The Administrative Fee shall be computed as two percent (2%) of the Annual Service Charge required pursuant to Section 4.03. This fee shall be payable and due on or before February 1st of each year for the Administrative Fee accrued in the prior calendar year, and collected in the same manner as the Annual Service Charge. In the event the Entity fails to pay the Administrative Fee when due and owing, the amount unpaid shall bear the highest rate of interest permitted under applicable New Jersey law in the case of unpaid taxes or tax liens until paid.

SECTION 4.07 Material Conditions

It is expressly agreed and understood that all payments of Annual Service Charge and any interest payments, penalties or costs of collection due thereon, Land Taxes and the Administrative Fee are material conditions of this Agreement (the “**Material Conditions**”). If any other term, covenant or condition of this Agreement, as to any person or circumstance shall, to any extent, 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 held invalid or unenforceable, shall not be affected thereby, and each remaining term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by Applicable Law.

SECTION 4.08 No Reduction in Payment of the Annual Service Charge

Neither the amounts nor dates established for payment of the Annual Service Charge, as provided in Sections 4.03 and 4.03 hereof shall be reduced, amended or otherwise modified during the term of this Agreement.

SECTION 4.09 Annual Service Charges as Municipal Lien

In accordance with the provisions of the Long Term Tax Exemption Law, the Annual Service Charge shall be and constitutes a continuous municipal lien on the Property and the Improvements.

SECTION 4.10 Security for Payment of Annual Service Charges

In order to secure the full and timely payment of the Annual Service Charge, the City on its own behalf reserves the right to prosecute an In Rem Tax Foreclosure action against the Property, as more fully set forth in this Agreement.

SECTION 4.11 County Portion Paid to the County

In accordance with the provisions of *N.J.S.A.* 40A:20-12, upon the payment of the Annual Service Charge, the City shall remit the County Share to the County.

{End of Article IV}

ARTICLE V

REMEDIES

SECTION 5.01 Dispute Resolution

In the event of a dispute arising between the Parties in reference to the terms and provisions as set forth herein, the Parties shall submit the dispute to the American Arbitration Association in the State 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. Each Party to this Agreement shall designate an arbitrator, and the two (2) arbitrators shall choose a third arbitrator. The arbitrators designated and acting under this Agreement shall make a determination, and produce a reasoned decision, regarding the issue(s) in controversy in strict conformity with the terms of this Agreement and Applicable Law. Costs for said arbitration shall be borne equally by both Parties.

Notwithstanding anything herein to the contrary, no arbitrator shall have any power or authority to amend, alter, or modify any part of this Agreement, in any way.

SECTION 5.02 Remedies

In the event of a Default on the part of the Entity to pay any installment of the Annual Service Charge required by Article IV, the City in addition to its other remedies, reserves the right to proceed against the Project and/or the Property, in the manner provided by Applicable Law, including the Tax Sale Law and the In Rem Tax Foreclosure Act, and any act supplementary or amendatory thereof. Whenever the word "Taxes" appears, or is applied, directly or implied, to mean real estate taxes or municipal liens on land, such statutory provisions shall be read, as far as it is pertinent to this Agreement, as if the Annual Service Charge constitutes taxes or a municipal lien on land. In either case, however, the Entity does not waive any defense it may have to contest the rights of the City to proceed in the above-mentioned manner.

{End of Article V}

ARTICLE VI

CERTIFICATE OF OCCUPANCY

SECTION 6.01 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 reasonably timely manner.

SECTION 6.02 Filing of Certificate of Occupancy

It shall be the responsibility of the Entity to promptly file with both the Tax Assessor and the Tax Collector a copy of any Certificate of Occupancy issued for the Project.

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.

{End of Article VI}

ARTICLE VII
ANNUAL AUDITS

SECTION 7.01 Accounting System

The Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles and as otherwise prescribed by Applicable Law.

SECTION 7.02 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, commencing for the year in which the Annual Service Charge Start Date occurs, for the duration of this Agreement, the Entity shall submit to the Mayor, City Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, and the Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year pursuant to *N.J.S.A. 40A:20-3(c)*. The Report shall clearly identify and calculate all items comprising the Annual Gross Revenue and the Net Profit for the Entity during the previous year. The Entity assumes all costs associated with preparation of the periodic reports. Any delay in submitting the Auditor's Report, which is the result of causes beyond the reasonable control of the Entity, shall not constitute a Default hereunder.

B. **Total Project Cost Audit:** Within ninety (90) days after the final Certificate of Occupancy is issued for the Project or Phase, as applicable, the Entity shall, unless this Agreement is terminated, submit to the Mayor, City Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, certified as to actual construction costs by the Entity's architect.

C. **Disclosure Statement:** On each anniversary date of the execution of this Agreement, if there has been a change in ownership or interest from the prior year's filing, the Entity shall submit to the Mayor, City 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 or Phase, as applicable, and the extent of the ownership interest of each and such additional information as the City may request from time to time.

SECTION 7.03 Inspection

The Entity shall permit the inspection of the Property, equipment, buildings and other facilities of the Project and, if deemed appropriate or necessary, by representatives duly authorized by the City and Division of Local Government Services in the Department of Community Affairs pursuant to *N.J.S.A. 40A:20-9(e)*. The Entity shall also permit, upon written request, examination and audit of its books, contracts, records, documents and papers relating to the Project by representatives duly authorized by the City and Division of Local Government Services in the Department of Community Affairs pursuant to *N.J.S.A. 40A:20-9(e)*. Such inspection shall be

made upon ten (10) days' written notice during the Entity's regular business hours, in the presence of an officer or agent designated by the Entity. To the extent reasonably possible, the inspection will not materially interfere with construction or operation of the Project.

SECTION 7.04 Limitation on Profits and Reserves

During the period of tax exemption as provided herein, the Entity shall be subject to a limitation of its profits and dividends pursuant to the provisions of *N.J.S.A.* 40A:20-15. Pursuant to *N.J.S.A.* 40A:20-3(b) and (c), this calculation shall be completed in accordance with generally accepted accounting principles. In accordance with *N.J.S.A.* 40A:20-15, excess Net Profits shall be calculated on an annual but cumulative basis.

The Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount up to ten percent (10%) of the Annual 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 shall be noncumulative.

There is expressly excluded from calculation of Annual Gross Revenue and from Net Profit as set forth in *N.J.S.A.* 40A:20-3 for the purpose of determining compliance with *N.J.S.A.* 40A:20-15 or *N.J.S.A.* 40A:20-16, any gain realized by the Entity on the sale of all or a portion of the Project, whether or not taxable under Applicable Law.

SECTION 7.05 Payment of Dividend and Excess Profit Charge

In the event the Net Profits of the Entity in any fiscal year shall exceed the Allowable Net Profits for such period, then the Entity, within ninety (90) days after the end of such fiscal year, shall pay such excess Net Profits to the City as an additional service charge; provided, however, that the Entity may maintain a reserve as determined pursuant to aforementioned Section 7.04. The calculation of Net Profit and Allowable Net Profit shall be made in the manner required pursuant to *N.J.S.A.* 40A:20-3(c) and 40A:20-15.

The Parties agree that any excess Net Profit will be paid to the City as additional Annual Service Charge.

{End of Article VII}

ARTICLE VIII

ASSIGNMENT AND/OR ASSUMPTION

SECTION 8.01 Approval of Sale of Project to Entity Formed and Eligible to Operate Under Applicable Law

The Entity shall not voluntarily transfer more than ten percent (10%) of the Project, until it has removed itself and the Project from all restrictions under this Agreement. The Entity shall, however, be permitted to transfer all or any portion of the Project to another urban renewal entity approved by the City as follows:

A. As permitted by *N.J.S.A. 40A:20-10(a)*, it is understood and agreed that the City, on written application by the Entity, shall consent to a sale of the Project or Phase thereof, and the transfer of this Agreement provided: (i) the transferee entity does not own or lease any other project subject to long term tax exemption at the time of transfer; (ii) the transferee entity is formed and eligible to operate under the Long Term Tax Exemption Law; (iii) the Entity is not then in Default of this Agreement or the Long Term Tax Exemption Law; (iv) the Entity's obligations under this Agreement are fully assumed by the transferee entity; (v) the transferee entity agrees to abide by all terms and conditions of this Agreement; and (vi) the principal owners of the transferee entity possess satisfactory business reputation and sufficient financial qualifications and credit worthiness to manage and complete the Project. Any assignment of the Entity's interest in this Agreement in whole or in part shall terminate any obligation of Entity hereunder with respect to the corresponding portion of the Project, and the assignee shall be deemed the Entity hereunder with respect to such portion of the Project. All rights and remedies of the City following an assignment shall be enforceable only against the assignee and the corresponding portion of the Project. The City agrees to countersign the assignment document for purposes of acknowledging such assignment, the ongoing validity of this Agreement with respect thereto, and the provisions of Sections 2.01 and 8.01(A) hereof. In the event that the transfer contemplated in this Section 8.01(A) is for less than the whole of the Project, the Annual Service Charge to be paid each by the Entity and the transferee entity after the transfer shall be based on the Annual Gross Revenue for that portion of the Project being transferred, calculated pursuant to Section 4.03 hereof.

B. Nothing herein shall prohibit, following prior notice thereof to the City and execution of an appropriate assignment and assumption agreement between the transferor and transferee, the transfer of Entity's interest herein (i) to a new urban renewal entity that is an Affiliate of the Entity, as to any Phase or (ii) to the Master Redeveloper. In the case of a transfer pursuant to 8.01(B)(i) hereof, the Parties hereby acknowledge and agree that, without any further action of the City Council, following the Effective Date hereof: (1) the rights and obligations with respect to Phase 2 may be assigned to and assumed by Manhattan Beach Phase II Urban Renewal LLC (the "**Phase 2 URE**"), an Affiliate of the Entity, and that the City and the Phase 2 URE shall enter into an agreement with respect to same substantially in the form of Exhibit 19-C to the Application; (2) the rights and obligations with respect to Phase 3 may be assigned to and assumed by Manhattan Beach Phase III Urban Renewal LLC (the "**Phase 3 URE**"), an Affiliate of the Entity, and that the City and the Phase 3 URE shall enter into an agreement with respect to same substantially in the form of Exhibit 19-D to the Application; and (3) following the assignment and

assumption of the rights and obligations with respect to Phase 2 and Phase 3 as set forth in paragraphs (1) and (2) immediately above, the City and the Entity shall enter into a new agreement, substantially in the form of Exhibit 19-B to the Application, which agreement shall govern the rights and obligations of the Parties solely with respect to Phase 1. Following the execution of the agreements referenced in paragraphs (1), (2), and (3) immediately above, this Agreement shall no longer be of any force or effect.

C. Nothing contained herein shall prohibit any transfer of any ownership interest in the Entity provided that the transfer, if ten percent (10%) or greater, shall be disclosed to the City Council in the next Auditor's Report or in correspondence sent to the City Clerk in advance of the next Auditor's Report.

D. If the Entity transfers the Project to another urban renewal entity, and the transferee entity has assumed all of the Entity's contractual obligations under this Agreement, then, pursuant to *N.J.S.A. 40A:20-6*, the Entity shall be discharged from any further obligation under this Agreement and shall be qualified to undertake another project pursuant to the Long Term Tax Exemption Law. The date of transfer of title of the Project to a purchasing entity shall be considered to be the close of the fiscal year of the Entity. Within ninety (90) days after that date of the transfer of title, the Entity shall pay to the City the amount of reserve, if any, maintained by it, as well as the excess Net Profit, if any, pursuant to *N.J.S.A. 40A:20-15*.

SECTION 8.02 Severability

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

SECTION 8.03 Collateral Assignment

A. It is expressly understood and agreed that the Entity has the right to encumber and/or assign the fee title to portions of the Property and/or Improvements for purposes of (i) financing the design, development, and construction of the Project or Phase and/or (ii) obtaining permanent mortgage financing relating to the Project or Phase, and that any such encumbrance or assignment shall not be deemed to be a violation of this Agreement.

B. The City acknowledges that the Entity and/or its Affiliates intend to obtain secured financing in connection with the acquisition, development, and construction of the Project or applicable Phase. The City agrees that the Entity and/or its Affiliates may assign, pledge, hypothecate, or otherwise transfer its applicable rights under this Agreement and/or its interest in the Project or applicable Phase to one or more secured parties or any agents therefor (each, a "Secured Party" and collectively, the "Secured Parties") as security for obligations of the Entity and/or its Affiliates, incurred in connection with such secured financing (collectively, the "Security Arrangements"). The Entity shall give the City written notice of any such Security Arrangements, together with the name and address of the Secured Party or Secured Parties. Failure to provide such notice waives any requirement of the City hereunder to provide any notice of Default or notice of intent to enforce its remedies under this Agreement.

It is expressly understood and agreed that the Entity has the right, subordinate to the lien of the Annual Service Charge, and to the rights of the City hereunder to encumber and/or lease the Land and/or Improvements, and that any such encumbrance or assignment shall not be deemed to be a violation of this Agreement.

{End of Article VIII}

ARTICLE IX

CITY FINDINGS

SECTION 9.01 Relative Benefits

In accordance with the Long Term Tax Exemption Law, specifically *N.J.S.A. 40A:20-11(a)*, the City hereby finds and determines that this Agreement is to the direct benefit of the health, safety, welfare and financial well-being of the City and its citizens despite the tax exemption granted hereunder. The Property is a former industrial site, was formerly owned by SARA and is currently vacant and underutilized. The Project or applicable Phase, will redevelop the Property with a residential complex consisting of approximately 486 market-rate rental units. The Project will create approximately 750-1,000 construction jobs and approximately 6 permanent jobs. The Project will generate significant amounts of new (otherwise unavailable) municipal revenues through the Annual Service Charge and water/sewer fees. In light of market conditions, economic factors and development costs impacting this Project, it is not financially feasible to undertake the development of this Project in the absence of the tax exemption. Accordingly, without the incentive the tax exemption provides, it is unlikely that the Project would be undertaken. Without the Project, the benefits described above would not be realized.

SECTION 9.02 Importance of Tax Exemption

In accordance with the Long Term Tax Exemption Law, specifically *N.J.S.A. 40A:20-11(b)*, the City hereby finds and determines that it has reviewed the Application and accompanying financial information and it has determined that this Agreement is a critical incentive for the Entity to undertake the Project in the City due to the extraordinary costs associated with the development of the Property. The tax exemption permits the development of underutilized property and provides a stream of revenue in the form of the Annual Service Charges. The relative stability and predictability of the Annual Service Charges will allow the owners and, by extension, the occupants, of the Project to stabilize their expenses, which will ensure the likelihood of the success of the Project and ensure that it will have a positive impact on the surrounding area. Further, the relative stability and predictability of the Annual Service Charge makes the Project more attractive to investors and lenders needed to finance the Project. The tax exemption permits the development of the Project in an area that cannot otherwise be feasibly developed by reducing the expenses associated with the operation of the Project. Reduced expenses allow for more competitive rents than would otherwise be possible in light of the extraordinary development costs. As a result, the locational decisions of the probable tenants will be influenced positively by the tax exemption.

{End of Article IX}

ARTICLE X

WAIVER

SECTION 10.01 Waiver

Nothing contained in this Agreement or otherwise shall constitute a waiver or relinquishment by the City or the Entity of any rights and remedies provided by the Applicable Law except for the express waiver herein of certain rights of acceleration and certain rights to terminate the Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit any right of recovery that the City or the Entity has under law, in equity, or under any provision of this Agreement.

{End of Article X}

ARTICLE XI

NOTICE

SECTION 11.01 Notice

Any notice required hereunder to be sent by any Party to another Party shall be sent to all other Parties hereto simultaneously by certified or registered mail, return receipt requested or by commercial overnight delivery service with package tracking capabilities and for which proof of delivery is available, as follows:

A. When sent to the Entity it shall be addressed as follows:

Manhattan Beach Phase I Urban Renewal LLC
32 Mount Kemble Ave
Morristown, New Jersey 07960

with copy to:

Patricia J. Ryou, Esq.
Pearlman & Miranda LLC
110 Edison Place, Suite 301
Newark, New Jersey 07102

B. When sent to the City, it shall be addressed as follows:

City Clerk
City of South Amboy
140 North Broadway
South Amboy, New Jersey 08879

with copy to:

Kevin P. McManimon, Esqq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068

The notice to the City shall identify the subject with the tax account numbers of the tax parcels comprising the Property.

In addition, if the Entity delivers formal written notice to the City of the name and address of any Secured Party, then the City shall provide such Secured Party with a copy of any notice required to be sent to the Entity.

{End of Article XI}

ARTICLE XII

COMPLIANCE

SECTION 12.01 Statutes and Ordinances

The Entity hereby agrees at all times prior to the expiration or Termination of this Agreement to remain bound by the provisions of Applicable Law and any lawful ordinances and resolutions of the City, including, but not limited to, the Long Term Tax Exemption Law. The Entity's failure to comply with such statutes or ordinances shall constitute a violation and breach of the Agreement.

{End of Article XII}

ARTICLE XIII

CONSTRUCTION

SECTION 13.01 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 or 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.

{End of Article XIII}

ARTICLE XIV

INDEMNIFICATION

SECTION 14.01 Indemnification

It is understood and agreed that in the event the City shall be named as a party defendant in any action respecting the Property brought against the City or the Entity by allegation of any breach, Default or a violation of any of the provisions of this Agreement and/or the provisions of the Long Term Tax Exemption Law or any other Applicable Law, the Entity shall indemnify and hold the City harmless from and against all liability, losses, damages, demands, costs, claims, actions or expenses (including reasonable attorneys' fees and expenses) of every kind, character and nature arising out of or resulting from the action or inaction of the Entity and/or by reason of any breach, Default or a violation of any of the provisions of this Agreement, the provisions of the Long Term Tax Exemption Law, and/or any other Applicable Law except for any misconduct by the City or any of its officers, officials, employees or agents, and the Entity shall defend the suit at its own expense. However, the City maintains the right to intervene as a party thereto, to which intervention the Entity hereby consents, the expense thereof to be borne by the Entity.

{End of Article XIV}

ARTICLE XV

DEFAULT

SECTION 15.01 Default

Default shall be failure of either Party to conform to the terms of this Agreement and/or perform any obligation imposed by statute, ordinance or lawful regulation beyond any applicable notice, cure or grace period. A Default by the Entity as to one Phase shall not constitute a Default as to another Phase.

SECTION 15.02 Cure Upon Default

Should a Party be in Default of any obligation under this Agreement, the non-defaulting Party shall notify the defaulting Party and any mortgagee, if applicable, of the Entity in writing of said Default (the "**Default Notice**"). Said Default Notice shall set forth with particularity the basis of said Default. Except as otherwise limited by law, the defaulting Party shall have sixty (60) days to cure any Default (other than a Default in payment of any installment of the Annual Service Charge which default must be cured within ten (10) days from the date of its receipt of the Default Notice) provided such cure can reasonably be effected within such sixty (60) day period in which case Entity shall have such additional time to cure as reasonably necessary to effect same. In the event of any uncured Default by the Entity, the City shall have the right to proceed against the Property pursuant to Applicable Law. Upon any Default in payment of any installment of the Annual Service Charge, the City shall have the right to proceed with an In Rem Tax Foreclosure consistent with the provisions and procedures of the In Rem Tax Foreclosure Act.

SECTION 15.03 Remedies Upon Default Cumulative; No Waiver

Subject to the other terms and conditions of this Agreement, 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 and no determination of the invalidity of any provision of this Agreement shall deprive the City of any of its remedies or actions against the Entity because of Entity's failure to pay Land Taxes, the Annual Service Charge, and/or the Administrative Fee and interest payments. This right shall only apply to arrearages that are due and owing at the time, and the bringing of any action for Land Taxes, Annual Service Charges, Administrative Fee or other charges, or for breach of covenant. The resort of any other remedy herein provided for the recovery of Land Taxes, Annual Service Charges, Administrative Fee or other charges shall not be construed as a waiver of the right to proceed with an In Rem Tax Foreclosure action consistent with the terms and provisions of this Agreement.

SECTION 15.04 Termination Upon Default of the Entity

In the event the Entity fails to cure or remedy any Default within the time period provided in Section 15.02, the City has the right to terminate this Agreement upon written notice to the Entity (the “**Notice of Termination**”).

SECTION 15.05 Final Accounting

Within ninety (90) days after the date of Termination, 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 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 15.06 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.

{End of Article XV}

ARTICLE XVI

MISCELLANEOUS

SECTION 16.01 Conflict

The Parties agree that in the event of a conflict between the Application and this Agreement and/or the Redevelopment Agreement, the language in this Agreement and/or the Redevelopment Agreement, as the case may be, shall govern and prevail.

SECTION 16.02 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 of the City authorizing this Agreement, and the Application constitute the entire agreement between the Parties and there shall be no modifications thereto other than by a written instrument executed by the Parties hereto and delivered to each of them.

SECTION 16.03 Entire Document

All conditions in the Ordinance of the City Council approving this Agreement are incorporated in this Agreement and made a part hereof. This Agreement, the Ordinance and the Application constitute the entire agreement between the Parties and there shall be no modifications thereto other than by a written instrument executed by the Parties and delivered to each of them.

SECTION 16.04 Good Faith

In their dealings with each other, the Parties agree that they shall act in good faith.

SECTION 16.05 Recording

This entire Agreement will be filed and recorded with the Middlesex County Clerk by the Entity at the Entity's expense.

SECTION 16.06 Municipal Services

The Entity shall make payments for municipal services, including water and sewer charges and any services that create a lien on a parity with or superior to the lien for Land Taxes, if applicable, and Annual Service Charges, as required by law. Nothing herein is intended to release the Entity from its obligation to make such payments.

SECTION 16.07 Estoppel Certificate

Within thirty (30) days following written request therefor by the Entity, or any mortgagee or other party having an interest in the Project or applicable Phase, the City shall issue a signed estoppel certificate in reasonable form stating that (i) this Agreement is in full force and effect, (ii) to the best of the City's knowledge, no Default has occurred under this Agreement (nor any event

which, with the passage of time and/or the giving of notice would result in the occurrence of a Default) or stating the nature of any Default, and (iii) stating any such other reasonable information as may be requested.

SECTION 16.08 Financing Matters

The financial information required by the final paragraph of *N.J.S.A.* 40A:20-9 is set forth in the Application.

SECTION 16.09 Counterparts

This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 16.10 Amendments

This Agreement may not be amended, changed, modified, altered or terminated without the written consent of the Parties.

SECTION 16.11 Certification

The Clerk shall certify to the Tax Assessor, pursuant to *N.J.S.A.* 40A:20-12, that an agreement with an urban renewal entity, i.e., the Entity, for the development of the Redevelopment Area, has been entered into and is in effect as required by the Long Term Tax Exemption Law. Delivery by the Clerk to the Tax Assessor of a certified copy of the Ordinance adopted by the City Council approving the tax exemption described herein and this Agreement shall constitute the required certification. Upon certification as required hereunder, the Tax Assessor shall implement the exemption and continue to enforce that exemption without further certification by the Clerk until the expiration of the entitlement to exemption by the terms of this Agreement or until the Tax Assessor has been duly notified by the Clerk that the exemption has been terminated.

Further, within 10 calendar days following the later of the effective date of the Ordinance or the execution of this Agreement by the Entity, the City Clerk shall transmit a certified copy of the Ordinance and this Agreement to the chief financial officer of Middlesex County and to the Middlesex County counsel for informational purposes.

SECTION 16.12 Severability

If any one or more of the covenants, agreements or provisions herein contained shall be held to be illegal or invalid in a final proceeding, then any such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof.

SECTION 16.13 Effect of Amendment and Restatement

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

{End of Article XVI}

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

MANHATTAN BEACH PHASE I URBAN RENEWAL LLC

By: _____
Name: _____
Title: _____

CITY OF SOUTH AMBOY

By: _____
Fred A. Henry, Mayor

STATE OF NEW JERSEY :
 : ss
COUNTY OF MIDDLESEX :

The foregoing instrument was acknowledged before me this ___ day of ___ 2021, by Fred A. Henry, and this person acknowledged under oath, to my satisfaction that:

- (a) he is the Mayor of the CITY OF SOUTH AMBOY, a municipal corporation of the County of Middlesex and State of New Jersey, named in the within document;
- (b) he is authorized to execute the attached document on behalf of the City of South Amboy;
- (c) he executed the attached document on behalf of the City of South Amboy; and
- (d) the attached document was signed and made by the City of South Amboy as its duly authorized and voluntary act.

Notary Public

SEAL

LIST OF EXHIBITS

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

- Exhibit A. Property Description
- Exhibit B. Exemption Application with Exhibits
- Exhibit C. Ordinance

EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B

EXEMPTION APPLICATION WITH EXHIBITS

(Exhibit 19-A, 19-B, 19-C, and 19-D to Application Intentionally Omitted as they are on file with the City)

EXHIBIT C
ORDINANCE

EXHIBIT D-1

Year 1	\$5,502,522
Year 2	\$6,826,185
Year 3	\$7,479,714
Year 4	\$7,591,910
Year 5	\$7,705,788
Year 6	\$7,821,375
Year 7	\$7,938,696
Year 8	\$8,057,776
Year 9	\$8,178,643
Year 10	\$8,301,323
Year 11	\$8,425,843
Year 12	\$8,552,230
Year 13	\$8,680,514
Year 14	\$8,810,721
Year 15	\$8,942,882
Year 16	\$9,077,025
Year 17	\$9,213,181
Year 18	\$9,351,378
Year 19	\$9,491,649
Year 20	\$9,634,024
Year 21	\$9,778,534
Year 22	\$9,925,212
Year 23	\$10,074,090
Year 24	\$10,225,202
Year 25	\$10,378,580
Year 26	\$10,534,259
Year 27	\$10,692,272
Year 28	\$10,852,656
Year 29	\$11,015,446
Year 30	\$11,180,678

EXHIBIT D-2

Year 1	\$4,325,609
Year 2	\$5,366,158
Year 3	\$5,879,907
Year 4	\$5,968,106
Year 5	\$6,057,627
Year 6	\$6,148,492
Year 7	\$6,240,719
Year 8	\$6,334,330
Year 9	\$6,429,345
Year 10	\$6,525,785
Year 11	\$6,623,672
Year 12	\$6,723,027
Year 13	\$6,823,872
Year 14	\$6,926,230
Year 15	\$7,030,124
Year 16	\$7,135,576
Year 17	\$7,242,609
Year 18	\$7,351,248
Year 19	\$7,461,517
Year 20	\$7,573,440
Year 21	\$7,687,041
Year 22	\$7,802,347
Year 23	\$7,919,382
Year 24	\$8,038,173
Year 25	\$8,158,746
Year 26	\$8,281,127
Year 27	\$8,405,344
Year 28	\$8,531,424
Year 29	\$8,659,395
Year 30	\$8,789,286

EXHIBIT D-3

Year 1	\$2,720,031
Year 2	\$3,374,350
Year 3	\$3,697,405
Year 4	\$3,752,866
Year 5	\$3,809,159
Year 6	\$3,866,297
Year 7	\$3,924,291
Year 8	\$3,983,155
Year 9	\$4,042,903
Year 10	\$4,103,546
Year 11	\$4,165,100
Year 12	\$4,227,576
Year 13	\$4,290,990
Year 14	\$4,355,354
Year 15	\$4,420,685
Year 16	\$4,486,995
Year 17	\$4,554,300
Year 18	\$4,622,614
Year 19	\$4,691,954
Year 20	\$4,762,333
Year 21	\$4,833,768
Year 22	\$4,906,275
Year 23	\$4,979,869
Year 24	\$5,054,567
Year 25	\$5,130,385
Year 26	\$5,207,341
Year 27	\$5,285,451
Year 28	\$5,364,733
Year 29	\$5,445,204
Year 30	\$5,526,882



City of South Amboy

140 North Broadway • South Amboy, New Jersey 08879

Phone: (732) 727-4600 Fax: (732) 727-6139

October 1, 2021

Deborah Brooks, City Clerk
City of South Amboy
140 North Broadway
South Amboy, New Jersey 08879

Re: SA 101 Main Street Urban Renewal LLC (the "Entity")

Dear Ms. Brooks:

I reviewed the application, proposed financial agreement and related documents submitted by the Entity for the proposed redevelopment of the property identified as Block 160, Lot 1 on the current tax map of the City and commonly known as 101 Main Street (the "Project Area"). The Entity, the designated redeveloper of the Project Area, proposes to construct a project consisting of an approximately 300,000 square foot warehouse and light industrial facility (the "Project").

I believe that this Project is a desirable and needed improvement in the City. Therefore, I recommend that the application be favorably considered by the City Council for the Entity, provided that all legal prerequisites have been met.

Sincerely yours,


Fred Henry, Mayor

ORD 2021-20
ORDINANCE OF THE CITY OF SOUTH AMBOY, COUNTY OF MIDDLESEX, NEW JERSEY APPROVING APPLICATION FOR A LONG TERM TAX EXEMPTION AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH SA 101 MAIN STREET URBAN RENEWAL LLC

WHEREAS, the City is authorized pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”) to determine whether certain parcels of land within the City constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

WHEREAS, by resolutions duly adopted, the City Council designated certain properties within the City, including without limitation, the parcels currently identified on the tax maps of the City as Block 160, Lot 1 and commonly known as 101 Main Street (the “**Project Area**”) as an “area in need of redevelopment” pursuant to the Redevelopment Law and the redevelopment laws which preceded it; and

WHEREAS, in accordance with the Redevelopment Law, and by ordinances duly adopted, the City Council adopted various redevelopment plans for the Project Area; and

WHEREAS, the South Amboy Redevelopment Agency (“**SARA**”), which was established as an instrumentality of the City, is responsible for implementing redevelopment plans and carrying out redevelopment projects in the City; and

WHEREAS, on June 3, 2021, SARA adopted a resolution designating SA 101 Main Street Urban Renewal LLC (the “**Entity**”) as the “redeveloper”, as that term is defined under the Redevelopment Law, of the Project Area subject to Entity’s acquisition of the Project Area; and

WHEREAS, the Entity is the contract purchaser of the Project Area; and

WHEREAS, the City and the Entity will enter into a Redevelopment Agreement (the “**Redevelopment Agreement**”), pursuant to which the Entity will redevelop the Project Area by constructing thereon a project consisting of: (a) an approximately 300,000 square foot warehouse and light industrial facility with approximately forty-seven (47) loading positions and space to store approximately seventy-two (72) trailers, and (b) certain on and off-site public and other infrastructure improvements (the “**Project**”); and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful Project, the Entity submitted to the Mayor of the City (the “**Mayor**”) an application (the “**Application**”), which is on file with the City Clerk, seeking tax exemption in connection with the Project pursuant to the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.* (the “**Long Term Tax Exemption Law**”), in exchange for which the Entity proposes to make payments to the City in lieu of taxes; and

WHEREAS, the Entity also submitted to the Mayor a form of financial agreement (the “**Financial Agreement**”), a copy of which is attached as Exhibit 19 to the Application, establishing the rights, responsibilities and obligations of the Entity; and

WHEREAS, the Mayor submitted the Application and Financial Agreement to the City Council with his recommendation for approval, a copy of which recommendation is on file with the City Clerk; and

WHEREAS, the City Council has determined that the Project represents an undertaking permitted by the Long Term Tax Exemption Law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH AMBOY, COUNTY OF MIDDLESEX, NEW JERSEY AS FOLLOWS:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Application and Financial Agreement are hereby approved.
3. The Mayor is hereby authorized to execute the Financial Agreement substantially in the form attached as Exhibit 19 to the Application, subject to such additions, deletions, modifications or amendments deemed necessary by the Mayor in his discretion in consultation with counsel, which additions, deletions, modifications or amendments do not alter the substantive rights and obligations of the parties thereto, and to take all other necessary and appropriate action to effectuate the Financial Agreement..
4. The Clerk of the City is hereby authorized and directed, upon execution of the Financial Agreement by the Mayor, to attest to the signature of the Mayor and to affix the corporate seal of the City upon such document.
5. If any part(s) of this ordinance shall be deemed invalid, such part(s) shall be severed and the invalidity thereof shall not affect the remaining parts of this ordinance.
6. This ordinance shall take effect in accordance with applicable law.

FINANCIAL AGREEMENT

THIS FINANCIAL AGREEMENT (hereinafter “**Agreement**” or “**Financial Agreement**”), made this ____ day of _____, 2021, by and between SA 101 MAIN STREET URBAN RENEWAL LLC (the “**Entity**”), a New Jersey limited liability company and an urban renewal entity qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, *N.J.S.A. 40A:20-1, et seq.* (the “**Long Term Tax Exemption Law**”), with offices at 32 Mount Kemble Ave, Morristown, New Jersey 07960 and the **CITY OF SOUTH AMBOY**, a municipal corporation of the State of New Jersey in the County of Middlesex with offices located at 140 North Broadway, South Amboy, New Jersey 08879 (the “**City**”, and together with the Entity, the “**Parties**”).

W I T N E S S E T H:

WHEREAS, the City of South Amboy in the County of Middlesex, New Jersey (the “**City**”) is authorized under the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”), to determine whether certain parcels of land within the City constitute an area in need of redevelopment and to adopt redevelopment plans therefor; and

WHEREAS, the City previously designated certain properties within the City, including the parcel identified as Block 160, Lot 1 on the City’s tax maps and commonly known as 101 Main Street (the “**Land**” or “**Project Area**”) as an “area in need of redevelopment” pursuant to the Redevelopment Law and the laws which preceded it; and

WHEREAS, on July 5, 1995, by Ordinance No. 20-95, the City adopted a redevelopment plan known as the “Northern Waterfront Redevelopment Plan” (the “**Original Redevelopment Plan**”) for certain property in the City including the Project Site; and

WHEREAS, on July 15, 2020, the City adopted Ordinance No. 08-2020 to, among other things, amend the Original Redevelopment Plan to permit light industrial uses, and to provide associated bulk standards therefor, applicable to the Project Site (the “**Redevelopment Plan**”); and

WHEREAS, the Entity is the contract purchaser of the Project Site; and

WHEREAS, the South Amboy Redevelopment Agency (the “**Agency**”) and the Entity entered into that Redevelopment Agreement, dated _____, 2021 (the “**Redevelopment Agreement**”), pursuant to which, among other things, the Entity agreed to redevelop the Project Site by constructing thereon a project consisting of: (a) an approximately 300,000 square foot warehouse and light industrial facility with approximately forty-seven (47) loading positions and space to store approximately seventy-two (72) trailers, and (b) certain on and off-site public and other infrastructure improvements (the “**Project**”); and

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

WHEREAS, in order to enhance the economic viability of, and opportunity for, a successful project, the City will enter into this Agreement with the Entity governing the payments made to the City in lieu of taxes on the Project pursuant to the Long Term Tax Exemption Law and the Redevelopment Law; and

WHEREAS, in accordance with the Long Term Tax Exemption Law, the Entity filed an application, which is incorporated herein by reference (the “**Application**”), with the City for approval of a long term tax exemption for the Improvements (as defined herein); and

WHEREAS, upon review of the Application, the City has made the following findings:

A. Relative Benefits of the Project:

The Project will provide the region with a new state-of-the-art light industrial/warehouse building. The Project Area is currently underutilized and could benefit from a facility upgrade that generates revenues and creates jobs. The Project is expected to produce approximately 500 construction jobs and approximately 150-200 permanent jobs.

B. Assessment of the importance of the tax exemption in obtaining development of the Project and influencing the locational decisions of probable occupants:

The Entity is making a significant equity contribution toward the cost of the Project. In order to improve the economic viability of the development of the Project, the City has agreed to provide the tax exemption for the Project pursuant to this Agreement. The stability and predictability of the Annual Service Charge (as defined herein) will make the Project more competitive and assist the Entity to undertake the Project in the City.

WHEREAS, the City Council on _____, 2021 adopted an ordinance approving the Application and authorizing the execution of this Agreement (the “**Ordinance**”), a copy of which is attached hereto as **Exhibit B**; and

WHEREAS, in order to set forth the terms and conditions under which the Entity and the City shall carry out their respective obligations with respect to the payment of the Annual Service Charge by the Entity, in lieu of real property taxes on improvements to the Project Area, the Parties have determined to execute this Financial Agreement.

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 1.01 Governing Law. This Financial Agreement shall be governed by the provisions of (a) the Long Term Tax Exemption Law, the Redevelopment Law and such other statutes as may be the sources of relevant authority, and (b) the Ordinance. It is expressly understood and agreed that the City relies upon the facts, data, and representations contained in the Application in granting this tax exemption.

Section 1.02 General Definitions. The following terms shall have the meaning assigned to such term in the preambles hereof:

<u>Agency</u>	<u>Ordinance</u>
<u>Agreement/Financial Agreement</u>	<u>Original Redevelopment Plan</u>
<u>Application</u>	<u>Parties</u>
<u>City</u>	<u>Project</u>
<u>City Council</u>	<u>Project Area</u>
<u>Entity</u>	<u>Redevelopment Agreement</u>
<u>Land</u>	<u>Redevelopment Law</u>
<u>Long Term Tax Exemption Law</u>	<u>Redevelopment Plan</u>

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

Administrative Fee: As defined in Section 4.10.

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

Allowable Profit Rate: The greater of twelve percent (12%) per annum or the percentage per annum arrived at by adding one and one quarter percent (1.25%) to the annual interest percentage rate payable on the Entity's initial permanent mortgage financing for the Project. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge 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 twelve percent (12%) per annum or the percentage per annum arrived at by adding one and one quarter percent (1.25%) per annum to the

interest rate per annum that the City determines to be the prevailing rate of mortgage financing on comparable improvements within Middlesex County. The provisions of *N.J.S.A.* 40A:20-3(b) are incorporated herein by reference.

Annual Gross Revenue: Annual gross rents and other income received by the Entity and derived from or generated by the leasing of the Land and any revenue or other amounts received by the Entity and derived from or generated by the Project, specifically excluding, without limitation, the proceeds of any condemnation or casualty awards, insurance proceeds, any gain realized by the Entity on the sale, transfer or other assignment or assumption of the Project or portion thereof, reimbursement of expenses by any tenant under any lease or rental agreement, proceeds of any financing or refinancing, or proceeds from any disposition of a partner or a partner's interest in the Entity or any successor entity.

Annual Service Charge: The amount the Entity has agreed to pay the City pursuant to Article IV herein with respect to the Improvements (but not the Land), which: (a) Entity has agreed to pay in part for municipal services supplied to the Project, (b) is in lieu of any taxes on the Improvements pursuant to *N.J.S.A.* 40A:20-12, and (c) shall be paid on the Annual Service Charge Payment Dates.

Annual Service Charge Payment Dates: February 1, May 1, August 1 and November 1 of each year commencing on the first such date after the Completion Date and ending on the Termination Date.

Annual Service Charge Start Date: The first Annual Service Charge Payment Date, which shall be the first Annual Service Charge Payment Date following Substantial Completion (as defined in the Redevelopment Agreement) of the Project .

Applicable Law: All federal, State and local laws, ordinances, approvals, rules, regulations and requirements applicable to the Project including, but not limited to, the Redevelopment Law, the Long Term Tax Exemption Law, relevant construction codes including construction codes governing access for people with disabilities, and such zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations thereunder, including all applicable environmental laws, applicable federal and State labor standards and all applicable laws or regulations with respect to the payment of prevailing wages.

Auditor's Report: An annual audited statement which clearly identifies the calculation of Net Profit as provided in *N.J.S.A.* 40A:20-3(c)(2). The contents of the Auditor's Report shall be prepared by a certified public accountant licensed to practice in the State in conformity with the Long Term Tax Exemption Law and generally accepted accounting principles.

Certificate of Occupancy: A Certificate of Occupancy (temporary or permanent), as such term is defined in the New Jersey Administrative Code, issued with respect to the Project or any portion thereof.

Completion Date: shall mean the date that a Certificate of Occupancy is issued authorizing occupancy of the buildings comprising the Project pursuant to *N.J.S.A.* 52:27D-133.

Default: A breach or the failure to perform any obligation imposed by the terms of this Agreement, or under Applicable Law.

Effective Date: The date of this Agreement.

Excess Profits Accounting Period: Any period, but not less than one fiscal year of the Entity, in which the aggregate Net Profits of the Entity exceed aggregate Allowable Net Profits on a cumulative basis. The first Excess Profits Accounting Period shall commence upon the issuance of a Certificate of Occupancy for the Project and terminate at the end of the fiscal year in which such aggregate Net Profits of the Entity exceed the aggregate Allowable Net Profits for the entire period, taken as one accounting period. Each subsequent Excess Profits Accounting Period shall commence on the first day of the next fiscal year of the Entity after the end of the last Excess Profits Accounting Period and shall terminate at the end of the fiscal year in which such aggregate Net Profits of the Entity exceed the aggregate Allowable Net Profits for the entire period, taken as one accounting period.

Improvements: All improvements on the Land comprising the Project.

In Rem Tax Foreclosure: A summary proceeding by which the City may enforce the lien for taxes or Annual Service Charge due and owing by a tax sale in accordance with the Tax Sale Law.

Land Taxes: The amount of taxes assessed on the value of the Land on which the Project is located.

Land Tax Payments: Payments due on the quarterly due dates for Land Taxes as determined by the Tax Assessor and the Tax Collector in accordance with Applicable Law.

Minimum Annual Service Charge: As defined in Section 4.10.

Net Profit: The Annual Gross Revenue of the Entity less all operating and non-operating expenses of the Entity, all determined in accordance with generally accepted accounting principles and the provisions of *N.J.S.A. 40A:20-3(c)*. Without limiting the foregoing, included in expenses shall be an amount sufficient to amortize the Total Project Cost in accordance with generally accepted accounting principles as well as all other expenses permitted under the provisions of *N.J.S.A. 40A:20-3(c)*.

Notice: As defined in Section 15.01.

Property: The Land and the Improvements.

Security Arrangements: As defined in Section 8.02(b).

Secured Parties: As defined in Section 8.02(b).

Secured Party: As defined in Section 8.02(b).

State: The State of New Jersey.

Tax Assessor: The City Tax Assessor.

Tax Collector: The City Tax Collector.

Tax Sale Law: The Tax Sale Law, *N.J.S.A. 54:5-1 et seq.*, as the same may be amended or supplemented from time to time.

Termination Date: The earlier to occur of: (i) the thirty-fifth (35th) anniversary of the Effective Date; (ii) the thirtieth (30th) anniversary date of the **Annual Service Charge Start Date**; or (iii) such other date as this **Financial Agreement** may terminate pursuant to the terms hereof or pursuant to **Applicable Law**.

Total Project Cost: The total cost of developing the Project as determined in accordance with *N.J.S.A. 40A:20-3(h)*, as certified by a qualified architect or engineer and as permitted pursuant to *N.J.S.A. 40A:20-3(h)*.

Section 1.02 Interpretation and Construction. In this **Financial Agreement**, unless the context otherwise requires:

(a) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this **Financial Agreement**, refer to this **Financial Agreement**, and the term “hereafter” means after, and the term “heretofore” means before the date of delivery of this **Financial Agreement**.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations, limited liability companies and other legal entities, including public or governmental bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this **Financial Agreement**, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this **Financial Agreement**, nor shall they affect its meaning, construction or effect.

(e) Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any person or party hereunder shall not be unreasonably withheld, conditioned, or delayed.

(f) All Notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within a reasonable time, which shall not be less than ten (10) days nor more than twenty (20) days, unless the context dictates otherwise.

(g) This **Financial Agreement** shall become effective upon its execution and delivery by the Parties.

(h) All exhibits referred to in this Financial Agreement and attached hereto are incorporated herein and made part hereof.

ARTICLE II

APPROVAL

Section 2.01 Approval of Tax Exemption. The City hereby grants its approval for a tax exemption for the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of Applicable Law, which Improvements shall be constructed on the Land.

Section 2.02 Approval of Entity. The Entity represents that its Certificate of Formation and Certificate of Authority as attached as *Exhibit 2* to the Application contain all the requisite provisions of law, have been reviewed and approved by the Commissioner of the Department of Community Affairs, and have been filed with, as appropriate, the Secretary of Treasury, all in accordance with *N.J.S.A. 40A:20-5*.

Section 2.03 Improvements to be Constructed. The Entity represents that it will construct the Project in accordance with the Redevelopment Agreement, the Redevelopment Plan and Applicable Law, the use of which is more specifically described in the Application.

Section 2.04 Management and Control. The Entity represents that it will be the owner of the Land upon which the Improvements are to be constructed and which is the subject of this Agreement.

Section 2.05 Financial Plan. The Entity represents that it currently anticipates that the Improvements shall be financed in accordance with the financial plan attached as *Exhibit 14* to the Application; provided, however, that the Entity may ultimately finance the Project in any commercially reasonable manner it determines to be necessary or convenient for the successful implementation of the Project. If requested by the Entity, the City shall reasonably cooperate with the Entity, at no out of pocket cost to the City, in connection with the Entity obtaining financing for the Project, including, without limitation, with respect to any Entity applications for State or other subsidy programs.

Section 2.06 Statement of Projected Revenues. The Entity represents that projected Annual Gross Revenue is set forth in *Exhibit 13* attached to the Application.

Section 2.07 Representations and Covenants Regarding Use, Management and Operations of the Project by the Entity. The Entity expressly covenants, warrants and represents that upon completion, the Project, including all Land and Improvements, shall be used, managed and operated for the purposes set forth in the Application, in accordance with the Redevelopment Agreement, Redevelopment Plan and all Applicable Laws. The Entity represents that the representations and covenants required under *N.J.S.A. 40A:20-9* are set forth in the Application.

ARTICLE III

DURATION OF AGREEMENT

Section 3.01 Term. It is understood and agreed by the Parties that this Agreement, including the obligation to pay the Annual Service Charge required under Article IV hereof and the tax exemption granted and referred to in Section 2.01 hereof, shall remain in effect until the Termination Date. The tax exemption shall only be effective during the period of usefulness of

the Project and shall continue in force only while the Land is owned by a corporation, association or other entity formed and operating under the Long Term Tax Exemption Law, except for permitted conveyances as stated in Article VIII of this Financial Agreement. Upon the Termination Date, the tax exemption for the Improvements shall expire and same shall thereafter be assessed and taxed according to the general law applicable to other non-exempt property in the City. Upon the Termination Date, all restrictions and limitations upon the Entity shall terminate upon the Entity's rendering and the City's acceptance of its final accounting, pursuant to *N.J.S.A. 40A:20-13*.

Section 3.02 Date of Termination. The Termination Date shall be deemed to be the fiscal year end of the Entity.

Section 3.03 Voluntary Termination of the Financial Agreement by Entity. Pursuant to the Long Term Tax Exemption Law, the Entity or any transferee, pursuant to Article VIII, may at any time after the expiration of one (1) year from the Annual Service Charge Start Date, notify the City in writing that, as of a certain date designated in the notice, it relinquishes its status as an urban renewal entity under the Long Term Tax Exemption Law and that the Entity, or such transferee, has obtained the consent of the Commissioner of the Department of Community Affairs, if required by Applicable Law. As of that date, all of the obligations and requirements contained in this Financial Agreement shall terminate. Notwithstanding the foregoing, such relinquishment shall not impact the obligation of the Entity or such transferee, as applicable, to make payment of any Land Taxes (during any period in which Land Taxes are not exempt hereunder) or Annual Service Charge that has accrued up to and including the Termination Date, or the obligation of the Entity or such transferee, as applicable, to perform the final accounting required by the Long Term Tax Exemption Law and Section 13.03 below.

ARTICLE IV ANNUAL SERVICE CHARGE

Section 4.01 Annual Service Charge. In consideration for the tax exemption provided for herein, the Entity shall make payment to the City, in lieu of real property taxes on the Improvements, of an Annual Service Charge in an amount, prior to the application of the Land Tax Credit against the Annual Service Charge pursuant to Section 4.08 hereof, calculated as follows:

(a) For the first (1) year from the Annual Service Charge Start Date, the Annual Service Charge for the Project shall be equal to the greater of (i) eighteen percent (18%) of the Annual Gross Revenue or (ii) \$1.25 per gross leasable square foot of the Project (currently anticipated to be approximately \$375,000.00);

(b) For each of the years two (2) through ten (10) from the Annual Service Charge Start Date, the Annual Service Charge for the Project shall be equal to the greater of (i) eighteen percent (18%) of the Annual Gross Revenue, (ii) \$2.00 per gross leasable square foot of the Project (currently anticipated to be approximately \$600,000) or (iii) twenty percent (20%) of the real property taxes otherwise due on the value of the Land and the Improvements;

(c) For each of the years eleven (11) through fifteen (15) from the Annual Service Charge Start Date, the Annual Service Charge for the Project shall be equal to the greater of (i)

eighteen and one-half percent (18.5%) of the Annual Gross Revenue, (ii) \$2.25 per gross leasable square foot of the Project (currently anticipated to be approximately \$675,000) or (iii) twenty percent (20%) of the real property taxes otherwise due on the value of the Land and the Improvements;

(d) For each of the years sixteen (16) through twenty (20) from the Annual Service Charge Start Date, the Annual Service Charge for the Project shall be equal to the greater of (i) nineteen percent (19%) of the Annual Gross Revenue, (ii) \$2.50 per gross leasable square foot of the Project (currently anticipated to be approximately \$750,000) or (iii) forty percent (40%) of the real property taxes otherwise due on the value of the Land and the Improvements;

(e) For each of the years twenty-one (21) through twenty-five (25) from the Annual Service Charge Start Date, the Annual Service Charge for the Project shall be equal to the greater of (i) nineteen and one-half percent (19.5%) of the Annual Gross Revenue, (ii) \$2.75 per gross leasable square foot of the Project (currently anticipated to be approximately \$825,000) or (iii) sixty percent (60%) of the real property taxes otherwise due on the value of the Land and the Improvements; and

(f) For each of the years twenty-six (26) from the Annual Service Charge Start Date through the end of the term of this Financial Agreement, the Annual Service Charge for the Project shall be equal to the greater of (i) eighty percent (80%) of the real property taxes otherwise due on the value of the Land and the Improvements and (ii) \$3.00 per gross leasable square foot of the Project (currently anticipated to be approximately \$900,000).

If necessary, in any year where the greatest amount set forth in subsections (a) through (f) above does not comply with applicable law, the aforesaid amount shall be calculated by applying such percentage to the Annual Gross Revenue as is necessary in order to result in such greatest amount complying with applicable law.

Section 4.02 Consent of Entity to Annual Service Charge. The Entity hereby consents and agrees to the amount of the Annual Service Charge and to the liens established in this Financial Agreement, and the Entity shall not contest the validity or amount of any such lien. Subject to the terms of this Agreement, the Entity's obligation to pay the Annual Service Charge shall be absolute and unconditional and shall not be subject to any defense, set-off, recoupment or counterclaim under any circumstances, including without limitation any loss of status of Entity as an "urban renewal entity" qualified under and as defined in the Long Term Tax Exemption Law. The Entity's remedies shall be limited to those specifically set forth herein and otherwise provided by law.

Section 4.03 Quarterly Installments. Beginning on the Annual Service Charge Start Date, the Entity shall pay the Annual Service Charge to the City on a quarterly basis on each Annual Service Charge Payment Date, subject, nevertheless, to adjustment for over or underpayment within ninety (90) days after the close of each calendar year. In the event that Entity fails to timely pay any installment, the amount past due shall bear the highest rate of interest permitted under applicable State law and then being assessed by the City against other delinquent taxpayers in the case of unpaid taxes or tax liens until paid. The City shall issue the Entity bills for the Annual Service Charge in a manner generally consistent with the manner of its billing of ad valorem real estate tax payments on other property in the City.

Section 4.04 Material Conditions. It is expressly agreed and understood that all payments of Land Taxes, Annual Service Charges and any interest payments, penalties or costs of collection due thereon, are material conditions of this Financial Agreement. If any other term, covenant or condition of this Financial Agreement or the Application, as to any person or circumstance shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Financial 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 remaining term, covenant or condition of this Financial Agreement shall be valid and enforced to the fullest extent permitted by Applicable Law.

Section 4.05 No Reduction in Payment of the Annual Service Charge. The Parties agree that neither the amounts nor dates established for payment of the Annual Service Charge, as provided in Section 4.01 hereof shall be reduced or amended or otherwise modified through any tax appeal on the Improvements or any other legal proceeding regarding the Project during the term of this Agreement. The foregoing notwithstanding, in the event the amounts due the City hereunder are based upon "taxes otherwise due" under Section 4.01 above, the Entity may, in an appropriate proceeding, challenge the assessment applicable to the Project.

Section 4.06 Service Charges as Municipal Lien. In accordance with the provisions of the Long Term Tax Exemption Law, upon recordation of this Financial Agreement and the Ordinance, any amount due and owing hereunder, including the Annual Service Charge shall be and constitute a continuous municipal lien on the Project.

Section 4.07 Security for Payment of Annual Service Charges. In order to secure the full and timely payment of the Annual Service Charges, the City reserves the right to prosecute an In Rem Tax Foreclosure action against the Property, as more fully set forth in this Agreement.

Section 4.08 Land Taxes. From and after the Effective Date, Land Taxes shall be assessed only on the Land portion of the Property without regard to any Improvements or increase in value to the Land because of the Improvements or approvals related thereto.

The Entity is required to pay both the Annual Service Charge and the Land Tax Payments. The Entity shall be entitled to a credit for the amount, without interest, of the Land Taxes paid on the Property in the last four preceding quarterly installments against the Annual Service Charge.

The Entity is obligated to make timely Land Tax Payments in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. No credit will be applied against the Annual Service Charge for partial payments of Land Taxes. In any year that the Entity fails to make any Land Tax Payments, beyond any notice and cure period, such delinquency shall render the Entity ineligible for any Land Tax credits against the Annual Service Charge for that year and such failure shall constitute a Default under this Agreement. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the Property pursuant to the Tax Sale Law and/or may terminate this Agreement in a manner consistent with the Default provisions set forth in Article XIII hereof.

Section 4.09 Administrative Fee. In addition to the Annual Service Charge, the Entity shall pay to the City an annual fee of two percent (2%) of the Annual Service Charge (the “Administrative Fee”). The Administrative Fee shall be payable and due on or before February 1st of each year for the Administrative Fee accrued in the prior calendar year, and collected in the same manner as the Annual Service Charge. In the event the Entity fails to pay the Administrative Fee when due and owing, the amount paid shall bear the highest rate of interest permitted under applicable State law and then being assessed by the City against other delinquent taxpayers in the case of unpaid taxes or tax liens until paid.

Section 4.10 Minimum Annual Service Charge. In no event shall the Annual Service Charge be less than the amount of the total taxes levied against the Project Area in the last full year in which it was subject to conventional taxation (the “Minimum Annual Service Charge”). Notwithstanding the provisions of the Long Term Tax Exemption Law or any provision of this Agreement to the contrary, the Annual Service Charge shall never be reduced below the Minimum Annual Service Charge through any tax appeal on the Land and/or Improvements or any other legal proceeding regarding the Project during the period that this Agreement is in force and effect. The Minimum Annual Service Charge shall be pro-rated on a monthly basis in the year in which the Annual Service Charge Start Date occurs and the year in which the Termination Date occurs.

ARTICLE V

CERTIFICATE OF OCCUPANCY

Section 5.01 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 the Certificate of Occupancy.

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

ARTICLE VI

ANNUAL AUDITS

Section 6.01 Accounting System. The Entity agrees to calculate its Net Profit pursuant to *N.J.S.A. 40A:20-3(c)*. As stated in *N.J.S.A. 40A:20-3(c)*, this calculation shall be made in accordance with generally accepted accounting principles.

Section 6.02 Periodic Reports.

(a) **Auditor’s Report:** Within ninety (90) days after the close of each fiscal year during the term of the exemption pursuant to this Agreement, commencing for the year in which the Annual Service Charge Start Date occurs, the Entity shall submit to the Mayor, City Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, and the State 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 clearly identify and calculate the Net Profit for the Entity during the previous year and shall include, but not be limited to, itemizations of operating and non-operating expenses, mortgage interest and terms, amortization of Improvements and such other computations of income, expense and other details as may relate to the financial status of the Entity. The Entity assumes all costs associated with preparation of the periodic reports. All such periodic reports shall remain confidential except as otherwise required by law.

(b) **Disclosure Statement:** Along with the Auditor's Report due under Section 6.02(a) hereof, the Entity shall submit to the City Council, a disclosure statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each.

(c) **Total Project Cost Audit:** Within one hundred twenty (120) days after the Completion Date, the Entity shall submit to the Mayor, City Council, Tax Collector and City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, certified as to actual construction costs by the Entity's architect.

Section 6.03 Inspection. The Entity shall, upon request, permit the inspection of its property, equipment, buildings and other facilities of the Project and also permit, upon request, examination and audit of its books, contracts, records, documents and papers by representatives duly authorized by the City, and State Division of Local Government Services in the Department of Community Affairs pursuant to *N.J.S.A. 40A:20-9(e)*. Such inspection shall be made upon seven (7) business days' advance written notice during the Entity's regular business hours, in the presence of an officer or agent designated by the Entity. To the extent reasonably possible, the inspection will not materially interfere with construction or operation of the Project.

ARTICLE VII

LIMITATION ON PROFITS AND RESERVES

Section 7.01 Limitation on 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*. Pursuant to *N.J.S.A. 40A:20-3(c)*, this calculation is completed in accordance with generally accepted accounting principles.

The Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount of up to ten percent (10%) of the Annual Gross Revenues of the Entity for the last full fiscal 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*. In no event shall any portion of the excess Net Profits be retained or contributed to such reserve if the amount of the reserve as of the end of such fiscal year equals or exceeds ten percent (10%) of the preceding year's Annual Gross Revenues. The reserve is to be noncumulative.

Section 7.02 Payment of Dividend and Excess Profit Charge. In accordance with *N.J.S.A. 40A:20-15*, if the Net Profits of the Entity shall exceed the Allowable Net Profits in any Excess Profits Accounting Period, then the Entity, within one hundred and twenty (120) days after the end of the Excess Profits Accounting Period, 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 Section 7.01.

Section 7.03 Payment of Reserve/Excess Net Profit Upon Termination, Expiration or Sale. The Termination Date of this Agreement, or the date of sale or transfer of the Improvements 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 Section 7.01 and the excess Net Profits, if any.

ARTICLE VIII ASSIGNMENT AND/OR ASSUMPTION

SECTION 7.01. Approval of Sale of Project to Entity Formed and Eligible to Operate Under Applicable Law. (a) Prior to the Completion Date, the Entity shall be permitted to transfer the Project, its ownership interest in the Land or any ownership interest in the Entity in accordance with the Redevelopment Agreement. After the Completion Date, the Entity shall not voluntarily transfer more than ten percent (10%) of the Project or any portion thereof, until it has first removed both itself and the Project from all restrictions imposed by this Agreement and the Long Term Tax Exemption Law in the manner provided by the Long Term Tax Exemption Law, except as provided in the following subsections.

(b) As permitted by *N.J.S.A. 40A:20-10(a)*, it is understood and agreed that the City, on written application by the Entity, will consent to a sale of the Land or transfer of interest in the Project, and the transfer of this Agreement, provided that: (i) the transferee entity does not own or lease any other Project subject to Long Term Tax Exemption Law at the time of transfer; (ii) the transferee entity is formed and eligible to operate under the Long Term Tax Exemption Law; (iii) the Entity is not then in Default of this Agreement or the Long Term Tax Exemption Law; (iv) the Entity's obligations under this Agreement are fully assumed by the transferee entity; (v) the transferee entity agrees to abide by all terms and conditions of this Agreement; and (vi) in the City's reasonable determination, the principal owners of the transferee entity possess satisfactory business reputation and sufficient financial qualifications and credit worthiness to manage the Project. In the event that the transfer contemplated in this Section 8.01(b) is for less than the whole of the Project, the Annual Service Charge to be paid each by the Entity and the transferee entity after the transfer shall be pro-rated based on the square footage of the building within the portion of the Project being transferred compared to the total square footage of all buildings comprising the Project.

(c) The Entity shall be permitted to transfer any ownership interest in the Entity, provided that, if the transfer is for an interest greater than 10 percent (10%), such transfer shall be disclosed to the City Council in the next Auditor's Report or in correspondence sent to the City Clerk in advance of the next Auditor's Report.

(d) If the Entity transfers the Project to another urban renewal entity, and the transferee entity has assumed all of the Entity's contractual obligations under this Agreement, then, pursuant to *N.J.S.A. 40A:20-6*, the Entity shall be discharged from any further obligation under this Agreement and shall be qualified to undertake another project pursuant to the Long Term Tax Exemption Law. The date of transfer of title of the Project to a purchasing entity shall be considered to be the close of the fiscal year of the Entity. Within ninety (90) days after that

date of the transfer of title, the Entity shall pay to the City the amount of reserve, if any, maintained by it, as well as the excess Net Profit, if any, pursuant to *N.J.S.A. 40A:20-15*.

SECTION 7.02. Collateral Assignment. (a) Notwithstanding the foregoing, it is expressly understood and agreed that the Entity has the right to encumber and/or assign the fee title to the Land and/or Improvements for purposes of (i) financing the design, development and construction of the Project, and (ii) permanent mortgage financing.

(b) The City acknowledges that the Entity and/or its affiliates intend to obtain secured financing in connection with the acquisition, development and construction of the Project. The City agrees that the Entity and or its affiliates may assign, pledge, hypothecate or otherwise transfer its rights under this Agreement and/or its interest in the Project to one or more secured parties or any agents therefore (each, a “Secured Party” and collectively, the “Secured Parties”) as security for obligations of the Entity, and/or its affiliates, incurred in connection with such secured financing (collectively, the “Security Arrangements”). The Entity shall give the City written Notice of any such Security Arrangements, together with the name and address of the Secured Party or Secured Parties. Failure to provide such Notice waives any requirement of the City hereunder to provide any Notice of Default or Notice of intent to enforce its remedies under this Agreement to the Secured Parties.

(c) Without limiting the generality of Article XIII hereof, if the Entity shall Default in any of its obligations hereunder, the City shall give Notice of such Default to the Secured Parties and the City agrees that, in the event such Default is not waived by the City or cured by the Entity, its assignee, designee or successor, within the period provided for herein, before exercising any remedy against the Entity hereunder, the City will provide the Secured Parties a reasonable period of time to cure such Default, but in any event not more than fifteen (15) days from the date of such notice to the Secured Parties with regard to a failure of the Entity to pay the Annual Service Charge or Land Taxes and ninety (90) days from the date the Entity was required to cure any other Default.

(d) In the absence of a Default by the Entity, the City agrees to consent to any collateral assignment by the Entity to any Secured Party or Secured Parties of its interests in this Agreement and to permit each Secured Party to enforce its rights hereunder and under the applicable Security Arrangement and shall, upon request of the Secured Party, execute such documents as are typically requested by secured parties to acknowledge such consent. This provision shall not be construed to limit the City’s right to payment from the Entity, nor shall the priority of such payments be affected by the Secured Party exercising its rights under any applicable Security Arrangement.

(e) Notwithstanding anything to the contrary contained herein, and in addition to all other rights and remedies of Secured Parties set forth in this Agreement, the provisions of *N.J.S.A. 55:17-1 to -11* shall apply to this Agreement to protect the interests of any Secured Party.

ARTICLE IX WAIVER

Section 9.01. Waiver. Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City or Entity of any rights and remedies provided by Applicable Law. Nothing herein shall be deemed to limit any right of recovery that the City or Entity has under law, in equity, or under any provision of this Financial Agreement.

ARTICLE X COMPLIANCE

Section 10.01 Statutes and Ordinances. The Entity hereby agrees at all times prior to the Termination Date to remain bound by the provisions of the Application and Applicable Law, including, but not limited to, the Long Term Tax Exemption Law. The Entity's failure to comply with such applicable statutes or ordinances shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate this Agreement, subject to the Default procedure provisions of Article XIII herein.

ARTICLE XI CONSTRUCTION

Section 11.01 Construction. This Financial Agreement shall be construed and enforced in accordance with the laws of the State, 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.

ARTICLE XII INDEMNIFICATION

Section 12.01 Indemnification. It is understood and agreed that in the event the City shall be named as party defendant in any action brought against the City or Entity by allegation of any breach, Default or a violation by the Entity of any of the provisions of this Agreement and/or the provisions of Applicable Law, the Entity shall indemnify, defend (at its own expense) and hold the City harmless from and against all liability, losses, damages, demands, costs, claims, actions or expenses (including reasonable attorneys' fees and expenses) of every kind, character and nature arising out of, or resulting from, the action or inaction of Entity and/or by reason of any breach, Default or a violation of any of the provisions of this Agreement and/or the provisions of Applicable Law, including without limitation, the Long Term Tax Exemption Law, except for such liability or other loss that results from any misconduct by the City or any of its officers, officials, employees or agents. Notwithstanding the foregoing, the City maintains the right to intervene as a party thereto, to which intervention the Entity hereby consents, with the expense thereof to be borne by the Entity. To the extent practical and ethically permissible, the Entity's attorneys shall jointly defend and represent the interest of the City and the Entity as to all claims indemnified in connection with this Agreement. Notwithstanding the foregoing and for avoidance of doubt, the Entity's indemnity obligations hereunder shall not extend to any action brought against the City or any instrumentality thereof in connection with the prior operation of the municipal landfill within the Project Area.

ARTICLE XIII
DEFAULT AND REMEDIES

Section 13.01 Cure Upon Default. Should the Entity be in Default, the City shall notify the Entity and any Secured Party in writing of said Default. Said notice shall set forth with particularity the basis of said Default. Except as provided in Section 8.02(b) hereof or otherwise limited by law, the Entity shall have sixty (60) days after it receives Notice to cure any Default (other than a Default in payment of any installment of the Annual Service Charge, which Default must be cured within ten (10) days after the Entity receives Notice). Curing the Default shall be the sole and exclusive remedy available to the Entity or the Secured Party, as applicable; provided, however, that if, in the reasonable opinion of the City, the Default cannot be cured within the applicable cure period using reasonable diligence, the time to cure may be extended upon written Notice for an additional ninety (90) day period of time.

Upon the expiration of the cure period, or any approved extension thereof, and providing that the Default is not cured, the City shall have the right to terminate this Agreement in accordance with Section 13.02 of this Agreement.

Section 13.02 Remedies Upon Default.

(a) In the event the Entity or a Secured Party fails to cure or remedy the Default within the time period provided in Sections 13.01 or 8.02(b), respectively, the City may terminate this Agreement upon written Notice to the Entity and the Secured Party.

(b) Upon any Default in payment of any installment of the Annual Service Charge not cured within ten (10) days, the City in its sole discretion shall have the right to immediately exercise the following remedies: (1) terminate this Agreement, at which time: the Improvements on the Land shall be subject to conventional taxation; or (2) exercise any other remedy available to the City in law or equity. The City as a courtesy will give Entity and any Secured Party Notice of the intention to exercise its remedies.

(c) No Default hereunder by the Entity shall terminate the tax exemption (except as described herein and after Notice and cure as provided for herein) and its obligation to pay the Annual Service Charge, which shall continue in effect for the duration of the term hereof and subject to Section 13.03 hereinafter.

(d) All of the remedies provided in this Agreement to the City, and all rights and remedies granted by law and equity shall be cumulative and concurrent and no determination of the invalidity of any provision of this Agreement shall deprive the City of any of its remedies or actions against the Entity because of the Entity's failure to pay Land Taxes, the Annual Service Charge and/or any applicable water and sewer charges and interest payments. This right shall only apply to arrearages that are due and owing at the time, and the bringing of any action for Land Taxes, Annual Service Charges or other charges, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes, Annual Service Charges or other charges shall not be construed as a waiver of the right to proceed with an In Rem Tax Foreclosure action consistent with the terms and provisions of this Agreement.

Section 13.03 Final Accounting. Within ninety (90) days after the Termination Date, 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 excess Net Profits. For purposes of rendering a final accounting, the Termination Date of the Agreement shall be deemed to be the end of the fiscal year for the Entity.

Section 13.04 Conventional Taxes. Upon the Termination Date, 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 XIV DISPUTE RESOLUTION

Section 14.01 Arbitration. In the event of a dispute arising between the Parties in reference to the terms and provisions as set forth herein, the Parties shall submit the dispute to the American Arbitration Association in the State 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. Each Party to this Agreement shall designate an arbitrator, and the two (2) arbitrators shall choose a third arbitrator. The arbitrators designated and acting under this Agreement shall make a determination regarding the issue(s) in controversy in strict conformity with the terms of this Agreement and Applicable Law. Costs for said arbitration shall be borne equally by both Parties. In the event of a Default on the part of the Entity to pay any installment of the Annual Service Charge required by Article IV above, the City, in addition to its other remedies, and subject to Article XIII of this Agreement, reserves the right to proceed against the Land, in the manner provided by law, including the Tax Sale Law, and any act supplementary thereto or amendatory thereof. Whenever the word "Taxes" appears, or is applied, directly or implied, to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as it is pertinent to this Agreement, as if the Annual Service Charge were taxes or municipal liens on land. In either case, however, the Entity does not waive any defense it may have to contest the rights of the City to proceed in the above-mentioned manner.

Notwithstanding anything herein to the contrary, no arbitrator shall have any power or authority to amend, alter, or modify any part of this Agreement, in any way.

ARTICLE XV NOTICE

Section 15.01 Notice. Formal notices, demands and communications between the City and Entity shall be deemed given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, or by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available ("Notice"). In that case such Notice is deemed effective upon delivery. Such written Notices may be sent in the same manner to such other addresses as either party may from time to time designate by written notice. Notice given by counsel to a party in accordance with this Section 15.01 shall be effective for all purposes hereunder. Copies of all notices, demands and communications shall be sent as follows:

If to the City:

City of South Amboy
140 North Broadway
South Amboy, New Jersey 08879
Attn: City Clerk

with copies to:

City of South Amboy
140 North Broadway
South Amboy, New Jersey 08879
Attn: Business Administrator

Kevin P. McManimon, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068

If to Entity:

SA 101 Main Street Urban Renewal LLC
32 Mount Kemble Ave
Morristown, New Jersey 07960

With a copy to:

Adam L. Peterson, Esq.
Pearlman & Miranda, LLC
Ironside Newark
110 Edison Place, Suite 301
Newark, New Jersey 07102

In addition, if the Entity delivers formal written notice to the City of the name and address of any Secured Party, then the City shall provide such Secured Party with a copy of any notice required to be sent to the Entity.

ARTICLE XVI
MISCELLANEOUS

Section 16.01 Conflict. The Parties agree that in the event of a conflict between the Application and this Financial Agreement, the language in this Financial Agreement shall govern and prevail.

Section 16.02 Oral Representations. There have been no oral representations made by either of the Parties which are not contained in this Financial Agreement. This Financial Agreement, the Ordinance and the Application constitute the entire agreement between the

Parties and there shall be no modifications thereto other than by a written instrument executed by the Parties and delivered to each of them.

Section 16.03 Entire Document. All conditions in the Ordinance are incorporated in this Agreement and made a part hereof. This Agreement, with all attachments and exhibits, the Ordinance and the Application shall constitute the entire agreement between the Parties, shall be incorporated herein by reference thereto and there shall be no modifications thereto other than by a written instrument approved and executed by and delivered to each Party. All prior agreements and understandings, if any, are superseded.

Section 16.04 Good Faith. In their dealings with each other, the Parties agree that they shall act in good faith.

Section 16.05 Recording. This entire Agreement will be filed and recorded with the Middlesex County Clerk by the Entity at the Entity's expense. Upon Termination of this Agreement, the parties shall execute and record an instrument discharging this Agreement of record in form reasonably satisfactory to the parties.

Section 16.06 Municipal Services. The Entity and/or its successors (including without limitation any owner's or similar association) will be responsible to provide and/or pay for the following services:

(a) **Water & Sewer** – The Entity shall make payments for water and sewer charges and any other services that create a lien on the Property superior to the lien for the Land Taxes and the Annual Service Charge, as required by law.

(b) **Waste and Refuse Disposal** – Collection and disposition of all solid waste, refuse and recyclables emanating from the Project, shall be the responsibility of the Entity to have picked up and disposed of by a licensed collector, hauler or scavenger, at the Entity's cost and expense. The City may establish regulations for the collection and for the storage and recycling of solid waste, discarded or old newspaper and/or other recyclables; compliance therewith shall be by and at the sole expense of the Entity.

Section 16.07 Counterparts. This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 16.08 Estoppel Certificate. Within thirty (30) days following written request therefor by the Entity, or any mortgagee or other party having an interest in the Project, the City shall issue a signed estoppel certificate in reasonable form stating that (i) this Agreement is in full force and effect, (ii) to the best of the City's knowledge, no Default has occurred under this Agreement (nor any event which, with the passage of time and/or the giving of notice would result in the occurrence of a Default) or stating the nature of any Default, and (iii) stating any such other reasonable information as may be requested.

Section 16.09 Financing Matters. The financial information required by the final paragraph of N.J.S.A. 40A:20-9 is set forth in the Application.

Section 16.10 Amendments. This Agreement may not be amended, changed, modified, altered or terminated without the written consent of the Parties hereto.

Section 16.11 Certification. The City Clerk shall certify to the Tax Assessor, pursuant to *N.J.S.A. 40A:20-12*, that a Financial Agreement with an urban renewal entity, i.e., the Entity, for the development of the Project, has been entered into and is in effect as required by the Long Term Tax Exemption Law. Delivery by the City Clerk to the Tax Assessor of a certified copy of the Ordinance and this Financial Agreement shall constitute the required certification. Upon certification as required hereunder, the Tax Assessor shall implement the exemption and continue to enforce that exemption without further certification by the clerk until the expiration of the entitlement to exemption by the terms of this Financial Agreement or until the Tax Assessor has been duly notified by the City Clerk that the exemption has been terminated.

Section 16.11 Conditions Precedent.

This Agreement is expressly subject to the satisfaction by the Entity or the City of the following conditions precedent:

(a) Receipt by the Entity of all federal, State, county, municipal or other approvals required for the construction of the Project.

(b) Enactment by the City of all ordinances and other official action necessary under the Long Term Tax Exemption Law to enter into and effectuate the terms of this Agreement.

EXHIBITS

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

Exhibits

- A. Metes and Bounds description of the Land
- B. Ordinance

IN WITNESS WHEREOF, the Parties have caused this Financial Agreement to be executed as of the day and year first above written.

ATTEST:

CITY OF SOUTH AMBOY

Deborah Brooks
City Clerk

By: _____
Fred Henry
Mayor

SA 101 MAIN STREET URBAN RENEWAL LLC

By: _____
Name: _____
Title: _____

EXHIBIT A

METES AND BOUNDS DESCRIPTION OF THE LAND

EXHIBIT B
ORDINANCE