

**AGENDA
COUNCIL MEETING
NOVEMBER 22, 2021**

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

7:00 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

APPOINTMENTS:

Patricia Reagan filling the unexpired term of Sy Attardi, expiring 12/31/2025 on the Housing Authority.

Motion: Second: Roll Call:

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 #21-226 through #21-231 are hereby approved. **SECONDED by:** _____. **ROLL CALL**

VOTE:

- | | |
|-------------|--|
| NO. 21-226 | RESOLUTION AWARDDING CONTRACT FOR ALLIE CLARK BASEBALL FIELD – LANDTEK GROUP INC. |
| NO. 21-227 | RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SOUTH AMBOY AND THE COUNTY OF MIDDLESEX FOR PUBLIC HEALTH SERVICES AND ENVIRONMENTAL SERVICES |
| NO. 21-228 | TAX VETERAN REFUND – BRYLINSKI |
| NO. 21- 229 | TAX VETERAN REFUND – YANEZ |
| NO. 21-230 | REFUND OF TAX OVERPAYMENT – BAYONNE COMMUNITY BANK |
| NO. 21-231 | 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) – APPROPRIATIONS |

RESOLUTIONS:

RESOLUTION NO. 21-232
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 November 3, 2021 Council Meeting.

MOVED by: _____ of the Council of the City of South Amboy, that Resolution No. 21-232 is hereby approved. **SECONDED by:** _____ **ROLL CALL VOTE:**

RESOLUTION NO. 21-233
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 November 18, 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. 21-233 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:**

FIRST READING/INTRODUCTION

ORDINANCE NO. 2021-18

AN ORDINANCE AMENDING ARTICLE XI OF THE SOUTH AMBOY CITY CODE TO ESTABLISH LEVELS OF STAFFING AND CREATE ADMINISTRATIVE DIVISIONS WITHIN THE SOUTH AMBOY POLICE DEPARTMENT

MOVED by: _____, that Ordinance #2021-18 be introduced on first reading and advertised for second reading which is scheduled for the December 15, 2021 meeting.
SECONDED by: _____, **ROLL CALL VOTE**

ORDINANCE NO. 2021-21

AN ORDINANCE AMENDING ORDINANCE NO. 1036 ENTITLED "PARKING AND TRAFFIC REGULATIONS" FOR THE CITY OF SOUTH AMBOY, IN THE COUNTY OF MIDDLESEX AND STATE OF NEW JERSEY -ADD FENLON

MOVED by: _____, that Ordinance #2021-21 be introduced on first reading and advertised for second reading which is scheduled for the December 15, 2021 meeting.
SECONDED by: _____, **ROLL CALL VOTE**

COMMENTS:

PUBLIC COMMENTS:

ADJOURNMENT TO CLOSE PUBLIC SESSION AND GO TO AN EXECUTIVE SESSION

RESOLUTION NO. 21-234
AUTHORIZATION TO MOVE INTO AN EXECUTIVE SESSION

WHEREAS, Section 8 of the Open Public Meetings Act (N.J.S.A. 10:4-12(b) (1-9) permits the exclusion of the public from a meeting in certain circumstances;

WHEREAS, the Council is of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of South Amboy, County of Middlesex and State of New Jersey, as follows:

1. The general nature of the subject matters to be discussed is as follows:

Contract Negotiations
Litigation
2. It is anticipated at this time that the above stated subject matters will be made public when the matters are concluded or as soon thereafter as it is deemed to be in the public interest to do so.
3. This Resolution shall take effect immediately.

MOVED by: _____ of the Council of the City of South Amboy, that Resolution No. 21-234 is hereby approved. **SECONDED by:** _____. **ROLL CALL VOTE**

**CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX**

**RESOLUTION NO. 21-226
RESOLUTION AWARDING CONTRACT FOR ALLIE CLARK BASEBALL FIELD
IMPROVEMENTS – LANDTEK GROUP INC.**

WHEREAS, sealed bids were received by the City of South Amboy on November 19, 2021 for improvements to the Allie Clark baseball field; and

WHEREAS, City Engineer, Mark Rasimowicz, reviewed all bids and provided their analysis and recommendations as set forth on the attached chart; and

WHEREAS, the Finance Director has determined sufficient funds in the amount of \$3,192,631.50 are available as evidenced by the Finance Director's certification, attached;

NOW, THEREFORE, BE, AND IT IS HEREBY RESOLVED by the Council of the City of South Amboy, Middlesex County, State of New Jersey, as follows:

1. The contract for the Allie Clark baseball field is hereby awarded to LandTek Group Inc., 105 Sweeneydale Ave., Bayshore, NY 11706 in the amount of \$3,192,631.50.

2. The Mayor and City Clerk are hereby authorized and directed to execute the contract for same.

3. The certified checks or bid bonds of the successful bidder LandTek Group Inc. and the next two lowest bidders; Zenith Construction Services, Inc., 365 Thomas Blvd., Orange, NJ 07050 and Flanagan's Contracting Group Inc., 90 Old Camplain Road, Hillsborough, NJ 08844 are to be returned upon the receipt of a fully executed contract and other required documents.

4. The Mayor and City Clerk are hereby further authorized and directed to take all further action and execute any further documents to give full effect to the contract and its objectives.

5. The City Clerk shall provide certified copies of this Resolution to all bidders, the City Engineer and City Law Director.

Certification of Funds:

I, Daniel Balka, Chief Financial Officer of the City of South Amboy, do hereby certify that the amount of \$3,192,474.00 will be available in accounts: G-02-41-800-065 \$1,500,000.00, C-04-19-001-007 \$1,000,000.00, C-04-21-001-014 \$500,000.00 and C-04-20-001-007 \$192,631.50

Daniel Balka, Chief Financial Officer
Dated:

CENTER STATE ENGINEERING

481 Spotswood Englishtown Road, Monroe Township, New Jersey 08831
T 732.605.9440 F 732.605.9444

November 19, 2021

City of South Amboy
Glenn Skarzynski, Business Administrator
140 North Broadway
South Amboy, NJ 08879

Re: City of South Amboy
Allie Clark Baseball Field Improvements
CSE No. SA 20-007-01
Recommendation of Award

Dear Mr. Skarzynski:

Sealed bids were opened on Friday, November 19, 2021, for the referenced project. Attached please find this office's "Summary of Bids" which details the bids opened.

Bid documents were reviewed and experience evaluated. We find the bid submitted by The LandTek Group, Inc., to be technically complete. Therefore, it is my recommendation, subject to a review by the City Attorney and the Treasurer's certification that sufficient funds are available, that the bid for the referenced project be awarded to The LandTek Group, Inc., the low, responsible bidder, in the total amount of \$3,192,631.50.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Mark Rasimowicz, PE, PP, CME
City Engineer

Attachment: "Summary of Bids"

MJR/dh

cc: Dan Balka, CFO
Deborah Brooks, City Clerk
Francis Womack, Esq.
All Bidders

**CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX**

RESOLUTION 21-227

**RESOLUTION APPROVING AN INTERLOCAL AGREEMENT
BETWEEN THE CITY OF SOUTH AMBOY AND THE COUNTY
OF MIDDLESEX FOR PUBLIC HEALTH SERVICES AND
ENVIRONMENTAL SERVICES**

WHEREAS, the County of Middlesex ("County") has created the Middlesex County Department of Public Health, pursuant to N.J.S.A. 26:3A2-1 et seq., to provide an array of public health services; and,

WHEREAS, the City of South Amboy ("City") is desirous of contracting with the County for furnishing by the County to the City health services of a technical and professional nature as more fully set forth in an interlocal contract between the County and the City, a copy of the proposed contract is on file with the City Clerk; and,

WHEREAS, the term of the proposed interlocal contract is for two years, commencing January 1, 2022 and terminating on December 31, 2023, at a base cost of \$67,615.18. for the year 2022 and \$68,967.49 for the year 2023;

NOW, THEREFORE, BE AND IT IS, HEREBY, RESOLVED by the Council of the City of South Amboy, Middlesex County, New Jersey, as follows:

1. The Interlocal Contract between the County of Middlesex and the City of South Amboy, to provide health services of a technical and professional nature is hereby approved and the Mayor and City Clerk are hereby authorized and directed to execute the same on behalf of the City of South Amboy.
2. The Mayor and the City Clerk are further authorized to take any necessary action and execute any additional documents to carry out the purpose and terms of the Contract.
3. The City Clerk shall return the original and two copies of the interlocal contract, with a certified copy of this Resolution, to the County of Middlesex, Public Health Department, 75 Bayard Street, Fifth Floor, New Brunswick, NJ 08901, with a request that the County of Middlesex return a fully executed copy of the contract to the City of South Amboy.
4. Upon receipt of the fully executed contract, the City Clerk shall maintain a copy of the contract on file, for public inspection, during normal business hours.

CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX

RESOLUTION NO. 21-228
Veteran Refund-Frank Brylinski

WHEREAS, Frank Brylinski, 307 Elm St, City of South Amboy, County of Middlesex Block 135 Lot 1 applied for a veteran property tax deduction on 11-08-2021; and

WHEREAS, the following applicant is entitled to the 250.00 deduction; in 2021; and

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

WHEREAS, Frank Brylinski is entitled to a refund of 250.00 for 2021; and

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 Frank Brylinski in the amount 250.00 for 2021 The Tax Assessor is hereby authorized to adjust the MOD IV system for 2022.

**CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX**

RESOLUTION NO.21-229
VETERAN TAX REFUND - YANEZ

WHEREAS, Jose Yanez, 6 Spinnaker Dr in the City of South Amboy County of Middlesex, Block 172 Lot 3 on the tax map applied for a Veteran property tax deduction for the year 2021, and;

WHEREAS, the applicant completed the application and provided the appropriate documentation for the allowance of the deduction and the application is on file in the tax office, and;

WHEREAS, the tax collector recommends that 250.00 adjust be made for Jose Yanez, Veteran deduction allowed for the 4th quarter in 2021, and;

NOW, THEREFORE, BE IT RESOLVED by the Council of City of South Amboy, Middlesex County, New Jersey that the, Tax Collector is hereby authorized to adjust 4th quarter for 2021 and the Tax Assessor adjust the tax duplicate for 2022.

FURTHER, BE IT RESOLVED that the City Clerk serve certified copies of this resolution upon the Tax Collector and Tax Assessor.

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

RESOLUTION NO. 21-230

REFUND OF TAX OVERPAYMENT – BAYONNE COMMUNITY BANK

WHEREAS, an overpayment was made by Bayonne Community Bank on property for Bliesener, Marc & Carolyn on 117 John St. in the City of South Amboy, County of Middlesex on Block 34 Lot 31 in the amount of \$2067.10 on the 4th quarter of 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, Bayonne Community Bank 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 \$2067.10 and the Tax Collector is hereby authorized to adjust the tax records to reflect a refund in the amount of \$2067.10.

Bayonne Community Bank
Loan Department
104-110 Avenue C
Bayonne, NJ 07002

**CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX**

RESOLUTION #21-231

**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**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue to the budget of any county or municipality when such item shall have been made available by law and the amount was not determined at the time of adoption of the budget; and

WHEREAS, the Director may also approve the insertion of any item of appropriation for equal amount; and

WHEREAS, the City has received a Municipal Alliance Grant award through the Governor's Council on Alcoholism and Drug Abuse in the amount of \$6,288.00; and

WHEREAS, the Municipal Alliance Grant requires a local cash match in the amount of \$1,572.00

NOW, THEREFORE, BE IT RESOLVED, that the City of South Amboy in the County of Middlesex, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of the following items in the 2021 Budget of the City of South Amboy:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated with Prior Written
Consent of the Director of the Division of Local Government Services:
County, State and Federal Revenues Off-set with Appropriations:
Municipal Alliance Grant.....\$6,288.00

General Appropriations:

(A) Operations – Excluded from CAPS
County, State and Federal Programs Off-set by Revenues:
Municipal Alliance Grant.....\$6,288.00

Local Match – Source:

Matching Funds for Grants.....\$1,572.00

MICHAEL GROSS
Council President

MINUTES FOR COUNCIL MEETING NOVEMBER 3, 2021

The Meeting held at South Amboy City Hall, 140 North Broadway, South Amboy, New Jersey, was called to order by Council President Gross at 6:00 P.M. The City Clerk read the Opening Prayer and all recited the Pledge of Allegiance.

PRESENT: Councilwoman Dato, Councilman McLaughlin, Councilwoman Noble, Councilman Reilly and Councilman Gross

ALSO PRESENT: Mayor Fred Henry, Glenn Skarzynski, Business Administrator, Deborah Brooks, City Clerk, and Francis Womack, City Attorney.

Clerk Brooks read the Notice of Publication Certification.

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: Ms. Noble of the Council of the City of South Amboy, that Resolution #21-217 through #21-223 are hereby approved. **SECONDED by:** Mr. McLaughlin. **ROLL CALL VOTE:** All in favor.

- 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: Ms. Dato of the Council of the City of South Amboy, that Resolution No. 21-224 is hereby approved. **SECONDED by:** Mr. McLaughlin **ROLL CALL VOTE:** Ayes: Dato, McLaughlin, Noble, Reilly Abstain: Gross.

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 bill list be appended to the official minutes.

MOVED by: Mr. McLaughlin of the Council of the City of South Amboy, that Resolution No. 21-225 is hereby approved. **SECONDED by:** Ms. Noble. **ROLL CALL VOTE:** All in favor.

ORDINANCES:

SECOND READING / ADOPTION Council President Gross noted that there was some question as to whether or not the Council was ready to vote to adopt Ordinance 21-19 and 21-20, the residential and warehouse projects at Manhattan Beach. He confirmed with Attorney Womack that this Business meeting, noticed and regularly occurring with action taken was a legal meeting to vote the matter. He offered the Council members the opportunity to speak and then the Council would decide whether or not to vote the issue tonight or carry the public hearing and vote to the November 22nd meeting. Mr. Reilly stated he thought the matter should be carried to a regular Council meeting, not voted at a business meeting. He wanted to ensure an open public forum was available before the vote. Ms. Dato thought the Council should move forward with the vote tonight as this matter has been in front of the Council and public for many months. She noted there had been several meetings held by the developers within the community, at Council meetings and at the SARA meetings. Mr. McLaughlin agreed with Mr. Reilly in wanting to vote the matter at a regular Council meeting. Ms. Noble thought voting this evening was appropriate and was concerned that the public might not come out for the November 22nd meeting as it was on a Monday. Mr. Gross stated that he believed the matter had been in front of the public and the developers had been very open in their presentation and communications to the public and the vote should be tonight.

It was agreed that the Council would be given the opportunity to question the developers and then the public hearing would take place. After the public hearing the Council would decide whether or not to close the public hearing and vote or to carry the vote until the November 22nd meeting.

Mr. Reilly read a prepared statement (see attached) that he said he was considering publishing in the press discussing his feelings against having more PILOT programs in South Amboy. There was a lengthy question and answer period between Mr. Reilly and Anthony Marchigiano, Richard Sciarretta, Andrew Janiw and Kevin McManimon covering tax rates, remediation costs, environmental issues, PILOT parameters, etc.

Mr. McLaughlin questioned the professionals regarding the City could prevent the transfer of the PILOT with the sale of the property in the future. He confirmed with Mr. Marchigiano that the builders would be using the E-verify system in its hiring. Mr. McLaughlin noted that while the City may not be getting everything it wants in the agreement, neither is the developer, and the agreement would be eliminating two contaminated properties.

Ms. Dato stated she thought this would be the most important PILOT the City has ever considered especially facing the amount of contamination that is on the site. The sites have been contaminated for decades and there have been no other developers showing interest.

Mayor Henry noted that the Developers had been extremely open and cooperative in working with the City and the public to educate them on the scope of the project and answer any questions the public or Council members might have. He reiterated that New Jersey had set up PILOT programs in order to assist in the development of areas that were too contaminated for general site build out. He reminded everyone that if the Council chooses to vote down this project, the City will be looking at footing the bill for the contamination clean up.

Council President Gross now opened the public hearing for Ordinance 2021-19. Attorney Womack noted that most of the comments will apply to both Ordinance 2021-19 and 2021-20.

Brandon Russell, 327 Fourth St., received confirmation that it was improbable the PILOT agreement would be banned from being transferable upon the possible sale of the property in the future. He asked about the status of the remediation plan and BA Skarzynski said he would follow up by sending him the LSRP report. Mr. Russell believes this site will prove to be easily marketed and requested the vote be carried to the November 22nd meeting.

Mary Szaro, 370 Fifth St., received answers concerning the possible locations for the affordable housing units being provided in the agreement. She hoped the Conrail property would not be included as a possible site as the City is hoping to add it to its Historical Property list and that it can be added as green space. BA Skarzynski said discussions for making it green space had already begun.

Greg Babilak, 125 Henry St., noted that no good comes when the people lie to the public. He was going to rebut Dave Kales statement that the City would make more tax dollar income from the PILOT project than if the City built townhouses on the property. He was also concerned about increase in traffic and parking and received confirmation from Andrew Janiw that these issues had been studied and are part of the Planning Board resolution of completion.

Chris Smiga, 144 Second St., noted he had attended the March 30th Community presentation and had follow up conversations with Mr. Marchigiano regarding various environmental issues on the site. He found everyone he spoke with open and communicative. He wondered what was Plan B for the contaminated site if this project was voted down?

Larry Parsons, 46 Pupek Rd., understands the "not in my back yard" attitude of some residents. He had been 100% against PILOTS until he heard Dave Kales speak about this PILOT project at the last meeting. He also questioned who would pay the environmental clean up bill if this project was voted down.

Anthony Conrad, 83 Southshore Dr., SARA member, talked about why he voted for this project for SARA approval. He emphasized his two most important points were the remediation cost factor, which transferred the risk of the contaminated sites to the developer and the fact that taxes would have to be raised significantly if the City had to foot the remediation bill. Second, he asked the Council to consider the financial implications of this project. The developers would be investing approximately 200 million into this project and the project would bring in around 50 million dollars over the 30 year life of the PILOT verses around 4 million as the site stands now with no other developers banging down the

doors to develop this site. As a 17year resident and SARA member he asked the Council to consider the project on its merits.

Brandon Russell – spoke again requesting to carry the vote to the next meeting in an abundance of transparency and questioned the Council on what it would do with the income from the project to improve community and youth services for the City residents.

Michael Kelly, 533 Henry St., discussed with the professionals whether or not the warehouse project would get built if the residential PILOT was voted down. It could be built but it would probably be built with non union labor and whoever was building it would look to the City to remediate the site first.

Council President Gross called for a motion to keep the public hearing open for Ordinance 2021-19 and 2021-20 and carry the hearing to the November 22nd meeting at 7pm.

Motioned by Mr. McLaughlin, seconded by Ms. Noble and carried unanimously.

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:

Mr. Reilly:

- Thanked the Council for carrying the vote until the November 22nd meeting.
- Thanked the First responders and Food Pantry volunteers for their continued good work.
- Reminded everyone next Thursday was Veteran’s day and the Library is having a recognition day – details are on the website.
- Confirmed with BA Skarzynski the signage for the Historic Society Window is in progress
- Congratulated the Board of Education election winners.
- Reminded everyone the FOSA will be holding its basketball fundraiser on December 18th.

- Received updates on the First St. garage, illegal pallet production operation and the pigeon palace site.

Mr. McLaughlin:

- Asked everyone to keep Tom Murphy in their prayers.
- Thanked the Food Pantry for their continued good work.
- Thanked the Council for carrying the vote to the November 22nd meeting.

Ms. Noble:

- Happy Veterans day – thank you for your service.
- Thanked the public for coming out and will see you on the 22nd.

Ms. Dato:

- Congratulated the newly elected Board of Education members – we appreciate your commitment!
- The County is replacing all of the macadam and sidewalks at the park and painting the buildings.

Mr. Gross:

- Thanked the public for coming out.
- Thanked the development professionals for continuing to be so transparent and communicative and for coming out once again to the meeting on the 22nd.

Mayor Henry:

- Thanked the groups that held Halloween events for the kids.
- Noted the success of the Cemetery Tour and Touch a Truck events.
- Thanked the volunteers at the food pantry noting that they would sometimes go to other towns to pick up food to bring back to the pantry.
- Thanked the professional developers and looked forward to seeing them at the November 22nd meeting.

Mr. Skarzyski:

- Congratulated the Arts Society for a successful Scarecrow Contest.
- Noted the Rotary is having a “Watch Party” for a ceremony they had that honored some local volunteers. It will be broadcast November 19th at 7pm on SATV.

Mr. Womack:

- Requested an Executive session be placed on the next agenda for Contract Negotiations and Litigation updates.
- Noted the Ms. Szaro, Mr. Stahl and he are working on the Ordinance for the Historic Society.

PUBLIC COMMENTS:

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

Approved November 3, 2021

New Jersey's Payment in Lieu of Taxes ("PILOT") program was originally designed to entice development in areas in need of extensive revitalization and rehabilitation. The original goal of the program was to foster local redevelopment by providing tax incentives to allow developers to make needed capital improvements on dilapidated properties. In certain limited circumstances, PILOTS are a necessary economic concession with which municipalities must engage in order to foster redevelopment. In such cases, they are a needed economic incentive to entice developers to improve property that would otherwise remain moribund.

But in recent years, this program has been a scheme for abuse, whereby unscrupulous developers make self-interested deals with unwary and unwise municipal leaders. The scheme is a simple one – a developer asks for a PILOT for property that does not necessarily need it. Rather than explore other options or negotiate proper terms, the municipality simply gives the developer what it wants. Over the next several decades, depending on the term of the agreement, the developer will make fixed payments in lieu of property taxes at a rate locked in for the term of the agreement. Thus, even as the property value increases exponentially, the payments remain fixed. The developer pays a fraction of what it normally would pay under regular property taxes, and in some cases is free to sell the property with the PILOT attached, substantially increasing its resale value. The developer makes massive profits at the municipality's expense.

What does the municipality get? Well, its taxpayers are stuck with the bill. PILOT payments do not have to be, and in some cases cannot be, shared with other local taxes, such as school taxes. Thus, for every child sent to school from a residence on such property, for every fire or other emergency on such property, South Amboy's taxpayers will be paying the bill. Our taxpayers will be shouldering a decades-long burden so that we can line the pockets of out-of-town developers, all so our leaders can point to the arbitrary and illusory short-term gain of a redevelopment agreement as a measure of what passes for progress.

New Jersey's Payment in Lieu of Taxes ("PILOT") program was originally designed to entice development in areas in need of extensive revitalization and rehabilitation. The original goal of the program was to foster local redevelopment by providing tax incentives to allow developers to make needed capital improvements on dilapidated properties. In certain limited circumstances, PILOTS are a necessary economic concession with which municipalities must engage in order to foster redevelopment. In such cases, they are a needed economic incentive to entice developers to improve property that would otherwise remain moribund.

But in recent years, this program has been a scheme for abuse, whereby unscrupulous developers make self-interested deals with unwary and unwise municipal leaders. The scheme is a simple one – a developer asks for a PILOT for property that does not necessarily need it. Rather than explore other options or negotiate proper terms, the municipality simply gives the developer what it wants. Over the next several decades, depending on the term of the agreement, the developer will make fixed payments in lieu of property taxes at a rate locked in for the term of the agreement. Thus, even as the property value increases exponentially, the payments remain fixed. The developer pays a fraction of what it normally would pay under regular property taxes, and in some cases is free to sell the property with the PILOT attached, substantially increasing its resale value. The developer makes massive profits at the municipality's expense.

What does the municipality get? Well, its taxpayers are stuck with the bill. PILOT payments do not have to be, and in some cases cannot be, shared with other local taxes, such as school taxes. Thus, for every child sent to school from a residence on such property, for every fire or other emergency on such property, South Amboy's taxpayers will be paying the bill. Our taxpayers will be shouldering a decades-long burden so that we can line the pockets of out-of-town developers, all so our leaders can point to the arbitrary and illusory short-term gain of a redevelopment agreement as a measure of what passes for progress.

I will say this – what passes for progress now will be a palpable hinderance in the not so distant future. A decade from now our largest and most profitable waterfront properties will be tied to outdated PILOT agreements, and our town will see none of the rightful tax dollars it should receive from properties that will balloon in value. Instead, we will be getting pennies on the dollar, and our taxpayers will be making up the difference.

Yet despite the many and obvious dangers of such agreements, our leadership has engaged in none of the good faith negotiations and give-and-take that should characterize all municipal deal-making. Instead, we simply believe whole cloth what these self-interested developers tell us. I have seen not one bit of pushback, not one bit of hard bargaining over the terms of these agreements. We have made it too easy, and in the process we have made it much harder for our City's future.

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Vendor # Name	PO #	PO Date	Description	Contract	PO Type	Acct Type Description	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099 Excl
A0000121 A & K Equipment Co. Inc.				Continued								
	21-02526	11/10/21	PLOW BOLTS - TRUCK#4	Continued								
			2 PLOW BOLTS - TRUCK#4	3.60	1-01-26-315-100	B Vehicle Mainten Maintenance of Motor Veh R		11/10/21	11/16/21		53706	N
				29.68								
			Vendor Total:	86.00								
ALPHA010 AlphaDog, Inc.												
	21-02542	11/15/21	Nov'21 Website Maintenance	21-00023	C							
			1 Nov'21 Website Maintenance	720.00	1-01-20-100-195	B Admin: Professional Consultant & Spec R		11/15/21	11/15/21		24988	N
			2 Public Webmaster Municipal	75.00	1-01-20-100-195	B Admin: Professional Consultant & Spec R		11/15/21	11/15/21			N
				795.00								
			Vendor Total:	795.00								
AMAZ0005 Amazon Business Account												
	21-02439	11/01/21	SATV technology improvements									
			1 SATV technology improvements	179.56	C-04-21-001-004	B Various Technology Improvements R		11/01/21	11/12/21		1L9W-663X-7CVK	N
			Vendor Total:	179.56								
AMPAR005 Amparo Kelly												
	21-02506	11/08/21	October Senior Chair Yoga									
			1 October Senior Chair Yoga	300.00	1-01-28-371-150	B Senior Citizens: Other Cont Services R		11/08/21	11/15/21		OCT 2021	N
			Vendor Total:	300.00								
B0000007 Burkard, Thomas R.												
	21-02482	11/05/21	1/2 Page Ad									
			1 1/2 Page Ad	280.00	1-01-20-110-025	B Mayor/Council: Advertising R		11/05/21	11/15/21		10/30/21	N
			Vendor Total:	280.00								
B0000033 B & H Photo Video												
	21-02319	10/18/21	Studio Camera Equipment- SATV									
			1 Studio Camera Equipment- SATV	427.68	1-01-44-900-700	B Capital Improv: TV Station Equip R		10/18/21	11/15/21		194837894	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
FPMAI005	FP Mailing Solutions	21-02459	11/03/21	Nov'21 postage meter #52		21-00001	C							
				1 Nov'21 postage meter #52	534.00	1-01-20-100-205		B Admin: Rental-Machinery & Equipment	R	11/03/21	11/16/21		30391739	N
				Vendor Total:	534.00									
G0000002	Gannett, NJ Partners LP	21-02543	11/05/21	Oct'21 inv.0004205722	81.69	1-01-20-120-025		B Clerk: Advertising	R	11/15/21	11/16/21		0004205722	N
				1 Oct'21 inv.0004205722	41.29	1-01-20-100-299		B Admin: Miscellaneous Other Expenses						
					122.98									
				Vendor Total:	122.98									
G0000031	Grotto Engineering Associates	21-02477	11/05/21	Oct'21 - Ferry Design		21-00019	C							
				1 Oct'21 - Ferry Design	4,287.50	1-01-20-165-195		B Engineer: Professional Consultant & Spec	R	04/07/21	11/15/21		30206	N
				Vendor Total:	4,287.50									
GONZA005	Leda C. Gonzalez, Interpreter	21-02518	11/09/21	October 2021 Interpreter										
				1 October 14, 2021 Interpreter	175.00	1-01-43-490-195		B Court: Professional Consultant & Spec	R	11/09/21	11/15/21		OCTOBER 2021	N
				Vendor Total:	175.00									
GOVCO006	GovConnection, Inc.	21-02123	09/28/21	Replacement-Finance copy/print										
				1 Replacement-Finance copy/print	364.22	1-01-20-130-145		B Finance: Office Supplies	R	09/28/21	11/15/21		71998581	N
				2-Epson Receipt Printer										
				1 2-Epson Receipt Printer	603.64	1-01-20-145-145		B Revenue: Office Supplies	R	10/26/21	11/15/21		72028733	N
					603.64	1-01-26-307-145		B Sewer: Office Supplies						
					1,207.28									
21-02456	11/03/21 FD Desk Top-Mechanicsville													
				1 FD Desk Top-Mechanicsville	808.58	1-01-25-265-145		B Fire Dept: Office Supplies	R	11/03/21	11/16/21		72079196	N

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GOVCO006	GovConnection, Inc.	Continued								
21-02456	11/03/21 FD Desk Top-Mechanicsville	Continued								
2		161.27	1-01-25-265-145	B	Fire Dept: Office Supplies	R	11/03/21	11/16/21	72079196	N
		969.85								
Vendor Total:		2,541.35								
GROFF005	Groff Tractor New Jersey LLC									
21-02413	10/27/21 CASE BACKHOE #7 PULLEY									
1	CASE BACKHOE #7 PULLEY	109.18	1-01-26-315-100	B	Vehicle Mainten Maintenance of Motor Veh	R	10/27/21	11/16/21	504065880	N
21-02414	10/27/21 BACK HOE BELT #7									
2	back hoe belt #7	53.80	1-01-26-315-100	B	Vehicle Mainten Maintenance of Motor Veh	R	11/16/21	11/16/21	PS0384581-1	N
21-02415	10/27/21 CREDIT									
3		42.40	1-01-26-315-100	B	Vehicle Mainten Maintenance of Motor Veh	R	11/16/21	11/16/21	PSR017577-1	N
Vendor Total:		120.58								
H0000002	Handi-Lift, Inc.									
21-02141	09/30/21 City Hall wheelchair lift-fix									
1	City Hall wheelchair lift-fix	5,545.92	1-01-26-310-105	B	B&G: Maintenance of Other Equipment	R	09/30/21	11/16/21	103138	N
21-02340	10/21/21 Yrly Contract 11/1/21-10/31/22									
1	Yrly Contract 11/1/21-10/31/22	1,025.00	1-01-26-310-150	B	B&G: Other Contractual Services	R	10/21/21	11/16/21	103367	N
Vendor Total:		6,570.92								
H0000005	Heyer, Gruel & Associates									
21-02511	11/09/21 Oct'21 Inv.37957		21-00026 C							
1	Oct'21 Inv.37957	75.00	1-01-20-165-195	B	Engineer: Professional Consultant & Spec	R	11/09/21	11/15/21	37957	N
Vendor Total:		75.00								
H0000011	Home Depot U.S.A., Inc.									
21-02156	10/04/21 DPW REPAIRS & SUPPLIES		21-00011 C							
1	DPW REPAIRS & SUPPLIES	101.82	1-01-26-290-075	B	Streets/Roads: Gen Hardware & Minor Tool	R	01/06/21	11/17/21	9350712	N
2	DPW REPAIRS & SUPPLIES	79.85	1-01-26-290-075	B	Streets/Roads: Gen Hardware & Minor Tool	R	01/06/21	11/17/21	9350712	N

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H0000611	Home Depot U.S.A., Inc.	Continued														
21-02420	10/27/21 DPW SUPPLIES					21-00011	C									
	1 DPW SUPPLIES	131.82		1-01-26-310-115		B B&G: Material & Supplies		R		10/25/21	11/17/21			7014414		N
21-02454	11/01/21 DPW SUPPLIES					21-00011	C									
	1 DPW SUPPLIES	31.44		1-01-26-310-115		B B&G: Material & Supplies		R		10/25/21	11/17/21			2031229		N
	2 DPW SUPPLIES	56.91		1-01-26-310-115		B B&G: Material & Supplies		R		10/25/21	11/17/21			2031229		N
	3 DPW SUPPLIES	30.32		1-01-26-310-115		B B&G: Material & Supplies		R		10/25/21	11/17/21			2031229		N
	4 DPW SUPPLIES	19.46		1-01-26-310-115		B B&G: Material & Supplies		R		10/25/21	11/17/21			2031229		N
	5 DPW SUPPLIES	13.14		1-01-26-310-115		B B&G: Material & Supplies		R		10/25/21	11/17/21			2031229		N
	6 DPW SUPPLIES	7.47		1-01-26-310-115		B B&G: Material & Supplies		R		10/25/21	11/17/21			2031229		N
	7 DPW SUPPLIES	7.47		1-01-26-310-115		B B&G: Material & Supplies		R		10/25/21	11/17/21			2031229		N
	8 DPW SUPPLIES	7.47		1-01-26-310-115		B B&G: Material & Supplies		R		10/25/21	11/17/21			2031229		N
		<u>173.68</u>														
	Vendor Total:	1,258.84														
HARKA005	Hark-ALS, Inc.															
21-02398	10/26/21 Girls on the Run															
	1 Girls on the Run	408.00		G-02-41-755-302		B Municipal Alliance		R		10/26/21	11/15/21			SA10082021		N
	Vendor Total:	408.00														
HARRY005	Harry Haushalter															
21-02555	11/15/21 Oct'21 Special Tax Counsel					21-00020	C									
	1 Oct'21 Special Tax Counsel	375.00		1-01-20-155-195		B Legal: Professional Consultant & Spec		R		11/15/21	11/17/21			1053		N
	Vendor Total:	375.00														
HBKIT005	HBK IT, LLC															
21-02468	11/03/21 Nov'21 Monthly Billing					21-00013	C									
	1 Nov'21 Monthly Billing	2,360.50		1-01-20-100-195		B Admin: Professional Consultant & Spec		R		11/03/21	11/16/21			11815		N
	2	<u>2,360.50</u>		1-01-25-240-195		B Police: Professional Consultant & Spec		R		11/03/21	11/16/21			11815		N
		4,721.00														
21-02469	11/03/21 Nov '21 software subscription															
	1 Nov '21 software subscription	36.00		1-01-20-100-299		B Admin: Miscellaneous Other Expenses		R		11/03/21	11/16/21			11816		N
	2 Microsoft Exchange Online	196.00		1-01-25-240-299		B Police: Miscellaneous Other Expenses		R		11/03/21	11/16/21			11816		N

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K0000032	Kiradhar, Inc.	21-02509	11/08/21	Oct '21 Gas Invoice	21-00024	C								
			1 Oct'21	Gas Invoice	1-01-31-430-250		B	Utilities - Gasoline	R	11/08/21	11/12/21		10/2021	N
	Vendor Total:			9,458.77										
K0BRA005	Kobra Electric, LLC	21-02450	11/01/21	WALKWAY LIGHTS										
			1	WALKWAY LIGHTS	1-01-26-305-299		B	Solid Waste: Misc Other Expenses	R	11/01/21	11/15/21		3485	N
	Vendor Total:			223.00										
LIMAC005	Lima Charlie Construction	21-00947	05/10/21	So. Broadway Roadway&Pedestrian										
			3	So. Broadway Roadway&Pedestrian	134,527.56	C-04-20-001-003	B	South Broadway Rdwy & Pedestrian Imp	R	05/10/21	11/16/21		PAYMENT #3	N
	Vendor Total:			134,527.56										
M0000003	MGL Forms - Systems, LLC	21-02329	10/18/21	Office Supplies										
			1	Minute Book	134.00	1-01-20-120-145	B	Clerk: Office Supplies	R	10/18/21	11/16/21		184201	N
			2	Resolution books	268.00	1-01-20-120-145	B	Clerk: Office Supplies	R	10/18/21	11/16/21		184201	N
			3	filler sheets	180.00	1-01-20-120-145	B	Clerk: Office Supplies	R	10/18/21	11/16/21		184201	N
			4	Shipping	29.00	1-01-20-120-145	B	Clerk: Office Supplies	R	10/18/21	11/16/21		184201	N
				611.00										
	Vendor Total:			611.00										
M0000004	Malouf Ford, Inc.	21-02351	10/25/21	signal lamps - truck#23	21-00006	C								
			2	signal lamps - truck#23	222.08	1-01-26-315-100	B	Vehicle Mainten Maintenance of Motor Veh	R	05/12/21	11/15/21		629083	N
			1	truck#23-steering parts	253.50	1-01-26-315-100	B	Vehicle Mainten Maintenance of Motor Veh	R	05/12/21	11/15/21		630229	N

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M0000004	Malouf Ford, Inc.					Continued								
21-02444	11/01/21	SHOP SUPPLY - STRIKER			88.20	21-00006 c	1-01-26-315-100	B Vehicle Mainten	R	05/12/21	11/15/21		630230	N
		1 SHOP SUPPLY - STRIKER						Maintenance of Motor Veh						
		Vendor Total:			563.78									
M0000014	Middlesex County Fire Academy													
21-02554	11/15/21	I-400 C.Mieizwiak			100.00		1-01-25-265-215	B Fire Dept: School Training Prog	R	11/15/21	11/17/21		01-1654-21	N
		1 I-400 C.Mieizwiak												
		Vendor Total:			100.00									
M0000022	Middlesex water Company													
21-02486	11/05/21	Oct'21 Hydrant Readings			17,671.96		1-01-31-430-220	B Utilities - Water	R	11/05/21	11/15/21		OCT 2021	N
		1 Oct'21 Hydrant Readings												
21-02504	11/08/21	9/29/21-10/28/21 140 NBroadway			389.27		1-01-31-430-220	B Utilities - Water	R	11/08/21	11/12/21			N
		1 9/29/21-10/28/21 140 NBroadway												
		Vendor Total:			18,061.23									
M0000057	Middlesex County Treasurer													
21-02404	10/26/21	5% PILOT fees due County			14,087.16		1-01-90-100-006	B County PILOT Taxes Payable	R	10/26/21	11/15/21			N
		1 5% PILOT fees due County-2021												
21-02585	11/16/21	2021 Added/Omitted Taxes			3,476.74		1-01-90-100-002	B County Taxes Payable	R	11/16/21	11/17/21		8424	N
		1 2021 Added/Omitted Taxes			292.82		1-01-90-100-003	B County Open Space Tax Payable	R	11/16/21	11/17/21		8424	N
		2			3,769.56									
		Vendor Total:			17,856.72									
MALOU006	Malouf Chevrolet-Cadillac Inc.													
21-02523	11/10/21	Fuel Pump - Police#410			263.80		1-01-26-315-100	B Vehicle Mainten	R	11/10/21	11/15/21		132527	N
		1 fuel Pump - Police#410						Maintenance of Motor Veh						

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Vendor #	Name	Contract	PO Type	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099 Excl
MALOU006	Malouf Chevrolet-Cadillac Inc.	Continued							
21-02523	11/10/21 fuel Pump - Police#410	Continued							
	2 fuel Pump - Police#410	24.97	1-01-26-315-100	B Vehicle Mainten	11/10/21	11/15/21		132527	N
		288.77							
	Vendor Total:	288.77							
MIDDLE010	Middlesex County Dept of Parks								
21-02583	11/16/21 Farm Wagon for Tree Lighting								
	1 Farm Wagon for Tree Lighting	200.00	1-01-30-420-299	B Celebration: Misc	11/16/21	11/17/21		85139	N
	Vendor Total:	200.00							
MSCHW005	M Schwartz & Sons								
21-02455	11/03/21 HINO starter kit								
	1 HINO starter kit	375.33	1-01-26-315-115	B Vehicle Mainten	11/03/21	11/16/21		34871	N
	Vendor Total:	375.33							
NEWHO005	New Horizon Communications								
21-02457	11/03/21 Internet Serv.11/1/21-11/30/21								
	1 Internet Serv.11/1/21-11/30/21	312.21	1-01-31-430-245	B Utilities - Internet	11/03/21	11/16/21		1690823	N
	2 778781-037078	298.63	1-01-31-430-245	B Utilities - Internet	11/03/21	11/16/21		1690824	N
		610.84							
	Vendor Total:	610.84							
O0000029	One Call Concepts, Inc.								
21-02575	11/16/21 1085557-IN SEWER MARK OUTS								
	1 1085557-IN SEWER MARK OUTS	91.87	1-01-26-307-095	B Sewer: Maintenance	11/16/21	11/17/21		1085557-IN	N
21-02576	11/16/21 1095557-IN SEWER MARK OUTS								
	1 1095557-IN SEWER MARK OUTS	79.36	1-01-26-307-095	B Sewer: Maintenance	11/16/21	11/17/21		1095557-IN	N
	Vendor Total:	171.23							

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P0000087 Printed Pixel, Inc.									
21-02416 10/27/21 WRAP-SEWER & MECHANICS TRUCK									
1 WRAP-SEWER & MECHANICS TRUCK	790.00	1-01-26-315-100		B Vehicle Mainten	Maintenance of Motor Veh R	10/27/21	11/15/21	4082	N
Vendor Total:	790.00								
PARTS005 Parts Authority, LLC									
21-02353 10/25/21 POLICE#: 403 - BRAKE PADS									
1 POLICE#: 403 - BRAKE PADS	101.92	1-01-26-315-100	21-00004 C	B Vehicle Mainten	Maintenance of Motor Veh R	04/12/21	11/16/21	101.92	N
21-02406 10/27/21 truck#15 - gasket sealant									
1 truck#15 - gasket sealant	19.12	1-01-26-315-100	21-00004 C	B Vehicle Mainten	Maintenance of Motor Veh R	04/12/21	11/16/21	301-126713	N
21-02407 10/27/21 washer fluid									
1 washer fluid	79.68	1-01-26-315-100	21-00004 C	B Vehicle Mainten	Maintenance of Motor Veh R	04/12/21	11/16/21	301-126726	N
21-02408 10/27/21 truck#20 - belt									
1 truck#20 - belt	38.83	1-01-26-315-100	21-00004 C	B Vehicle Mainten	Maintenance of Motor Veh R	04/12/21	11/16/21	301-126319	N
21-02409 10/27/21 fire truck#10 - battery									
1 fire truck#10 - battery	222.52	1-01-26-315-100	21-00004 C	B Vehicle Mainten	Maintenance of Motor Veh R	04/12/21	11/16/21	301-125766	N
21-02410 10/27/21 fire truck#10 - battery									
1 fire truck#10 - battery	222.52	1-01-26-315-100	21-00004 C	B Vehicle Mainten	Maintenance of Motor Veh R	04/12/21	11/16/21	300-292269	N
21-02411 10/27/21 truck#1 - wiper blade									
1 truck#1 - wiper blade	22.48	1-01-26-315-100	21-00004 C	B Vehicle Mainten	Maintenance of Motor Veh R	04/12/21	11/16/21	301-126306	N
21-02412 10/27/21 CREDIT									
1 CREDIT	60.00-	1-01-26-315-100	21-00004 C	B Vehicle Mainten	Maintenance of Motor Veh R	05/12/21	11/16/21	301-020196	N
21-02445 11/01/21 CREDIT									
1 CREDIT	186.98-	1-01-26-315-100	21-00004 C	B Vehicle Mainten	Maintenance of Motor Veh R	05/12/21	11/15/21	301-020331	N
21-02446 11/01/21 BACKHOE#7 - BATTERY									
1 BACKHOE#7 - BATTERY	186.98	1-01-26-315-100	21-00004 C	B Vehicle Mainten	Maintenance of Motor Veh R	04/12/21	11/16/21	301-127045	N

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Vendor # Name	PO #	PO Date	Description	Contract	PO Type	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099 Excl
PARTS005 Parts Authority, LLC Continued											
	21-02524	11/10/21	beacon led light - truck#11	21-00004	C						
			1 beacon led light - truck#11	104.78	1-01-26-315-100	B Vehicle Mainten	04/12/21	11/15/21		031-124891	N
	21-02568	11/16/21	POLICE#410-SPARK PLUG WIRE	21-00004	C						
			1 POLICE#410-SPARK PLUG WIRE	48.96	1-01-26-315-100	B Vehicle Mainten	04/12/21	11/17/21		301-129312	N
			2 POLICE#410-SPARK PLUG WIRE	50.62	1-01-26-315-100	B Vehicle Mainten	05/12/21	11/17/21		301-129312	N
				99.58							
	21-02569	11/16/21	TPMS SENSORS SHOP SUPPLY	21-00004	C						
			1 TPMS SENSORS SHOP SUPPLY	121.80	1-01-26-315-100	B Vehicle Mainten	04/12/21	11/17/21		301-129441	N
	21-02571	11/16/21	CREDIT	21-00004	C						
			1 CREDIT	9.48	1-01-26-315-100	B Vehicle Mainten	05/12/21	11/17/21		301-02046	N
	21-02572	11/16/21	POLICE#: 402 - SHOP SUPPLY	21-00004	C						
			1 POLICE#: 402 - SHOP SUPPLY	216.00	1-01-26-315-100	B Vehicle Mainten	04/12/21	11/17/21		301-129010	N
	21-02573	11/16/21	wiper blades-shop supply	21-00004	C						
			1 wiper blades-shop supply	17.28	1-01-26-315-100	B Vehicle Mainten	04/12/21	11/17/21		301-129006	N
	21-02574	11/16/21	STARTER MOTOR-POLICE TAHOE	21-00004	C						
			1 STARTER MOTOR-POLICE TAHOE	133.79	1-01-26-315-100	B Vehicle Mainten	04/12/21	11/17/21		301-129104	N
			Vendor Total:	1,330.82							
PRIME005 PRIMEPOINT, LLC											
	21-02478	11/05/21	Sept'21 Payroll Services	21-00028	C						
			1 Sept'21 Payroll Services	1,975.80	1-01-20-130-095	B Finance: Maintenance Agreement	05/18/21	11/15/21		483830	N
	21-02479	11/05/21	Oct'21 Payroll Services	21-00028	C						
			1 Oct'21 Payroll Services	1,678.60	1-01-20-130-095	B Finance: Maintenance Agreement	11/05/21	11/15/21		487451	N
			Vendor Total:	3,654.40							
R0000046 RR Donnelly											
	21-02303	10/15/21	REG-42A 8.5X 11 Safety Paper								
			1 REG-42A 8.5X 11 Safety Paper	147.00	1-01-27-331-145	B Vital: office Supplies	10/15/21	11/16/21		913029275	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
SGPAV005	S & G Paving, Inc.	21-01289	06/17/21	'21 Road Improvements-Variou										
		1		'21 Road Improvements-Variou	49,873.35	C-04-19-001-006		B 2019 Road Imprvmt Program	R	06/17/21	11/16/21		PAYMENT #1	N
	Vendor Total:				49,873.35									
SPECT011	Spectrotel Holding Company LLC	21-02458	11/03/21	Nov'21 Invoice# 10544690										
		1		Nov'21 Invoice# 10544690	479.58	1-01-31-430-240		B Utilities - Telephone	R	11/03/21	11/16/21		10544690	N
	Vendor Total:				479.58									
T0000003	The Hose Shop, Inc.	21-02418	10/27/21	SPEED LIMIT SIGN LAMPS		21-00010 C								
		1		9 - SPEED LIMIT SIGN CLAMPS	36.15	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh	R	01/06/21	11/15/21		00222023	N
		21-02449	11/01/21	SHOP SUPPLY-TIE STRAPS		21-00010 C								
		1		SHOP SUPPLY-TIE STRAPS	39.00	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh	R	01/06/21	11/15/21		00222630	N
		21-02532	11/10/21	TRUCK#11 - CYLINDER REPAIR		21-00010 C								
		1		TRUCK#11 - CYLINDER REPAIR	200.00	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh	R	01/06/21	11/15/21		00222914	N
		21-02577	11/16/21	SALT SPREADER PARTS-TRUCK#17		21-00010 C								
		1		SALT SPREADER PARTS-TRUCK#17	48.46	1-01-26-315-100		B Vehicle Mainten Maintenance of Motor Veh	R	01/06/21	11/17/21		00223667	N
	Vendor Total:				323.61									
TACTI005	Tactical Public Safety, LLC.	21-00105	01/12/21	PD G2 PROGRAM										
		1		PD G2 PROGRAM	6,146.00	1-01-25-240-150		B Police: Other Contractual Services	R	01/12/21	11/15/21		QUOTE	N
		21-02471	11/04/21	MAINTENANCE AGRMT 11 2021		21-00029 C								
		1		MAINTENANCE AGRMT 11 2021	1,472.03	1-01-25-240-150		B Police: Other Contractual Services	R	06/09/21	11/16/21		11.21 MNTC	N
		2			157.83	1-01-25-252-095		B OEM: Maintenance Agreement	R	06/09/21	11/16/21		11.21MNTC	N
		3			258.84	1-01-25-260-299		B Aid to Vol Ambulance: Misc Other Expense	R	06/09/21	11/16/21		11.21MNTC	N
		4			991.15	1-01-25-265-105		B Fire Dept: Maint of Other Equipment	R	06/09/21	11/16/21		11.21MNTC	N

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Vendor #	Name	PO #	PO Date	Description	Contract	PO Type	Acct Type	Description	Stat/Chk	First Enc Date	Rcvd Date	Chk/Void Date	Invoice	1099	Excl
TACTI005	Tactical Public Safety, LLC.				Continued										
21-02471	11/04/21	MAINTENANCE AGRMT 11 2021		Continued											
5				284.09	1-01-26-290-105		B Streets/Roads: Maint of Other Equip	R		06/09/21	11/16/21		11.21MNTC	N	
				3,163.94											
21-02474	11/04/21	OCT 2021 AGRMNT			21-00029 C										
1	OCT 2021 AGRMNT			1,472.03	1-01-25-240-150		B Police: Other Contractual Services	R		06/09/21	11/16/21		10-21 MNTC	N	
2				157.83	1-01-25-252-095		B OEM: Maintenance Agreement	R		06/09/21	11/16/21		10-21 MNTC	N	
3				258.84	1-01-25-260-299		B Aid to Vol Ambulance: Misc Other Expense	R		06/09/21	11/16/21		10-21 MNTC	N	
4				991.15	1-01-25-265-105		B Fire Dept: Maint of Other Equipment	R		06/09/21	11/16/21		10-21 MNTC	N	
5				284.09	1-01-26-290-105		B Streets/Roads: Maint of Other Equip	R		06/09/21	11/16/21		10-21 MNTC	N	
				3,163.94											
Vendor Total:				12,473.88											
TAYL0005	Taylor Communications, Inc.														
21-02326	10/18/21	Court Supplies													
1	Special Complaint			430.00	1-01-43-490-190		B Court: Printing & Binding	R		10/18/21	11/16/21		V9486217	N	
2	Uniform Traffic Tickets			490.00	1-01-43-490-190		B Court: Printing & Binding	R		10/18/21	11/16/21		V9486217	N	
3	Carbon Mailer Notices			336.00	1-01-43-490-190		B Court: Printing & Binding	R		10/18/21	11/16/21		V9486217	N	
				1,256.00											
Vendor Total:				1,256.00											
V0000001	Verizon														
21-02553	11/15/21	11/6/2021 732-525-0192													
1	11/6/2021 450-776-364-0001-74			209.37	1-01-31-430-240		B Utilities - Telephone	R		11/15/21	11/17/21			N	
Vendor Total:				209.37											
V0000002	Verizon Wireless														
21-02442	11/01/21	Sept22-Oct21,21 Message Board													
1	Sept22-Oct21,21 Message Board			1,603.32	1-01-31-430-245		B Utilities - Internet	R		11/01/21	11/15/21		9891167278	N	
Vendor Total:				1,603.32											

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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
VERIZ020	Verizon - broadband	Continued												
21-02549	11/15/21	11/8/21	656-680-576-0001-33											
1	11/8/21	656-680-576-0001-33	89.00	1-01-31-430-245	B Utilities - Internet	R	11/15/21	11/15/21						N
21-02550	11/15/21	11/7/21	656-679-478-0001-59											
1	11/7/21	656-679-478-0001-59	89.00	1-01-31-430-245	B Utilities - Internet	R	11/15/21	11/15/21						N
21-02551	11/15/21	11/3/21	356-707-910-0001-08											
1	11/3/21	356-707-910-0001-08	69.00	1-01-31-430-245	B Utilities - Internet	R	11/15/21	11/15/21						N
21-02552	11/15/21	11/9/21	156-682-080-0001-58											
1	11/9/21	156-682-080-0001-58	89.00	1-01-31-430-245	B Utilities - Internet	R	11/15/21	11/17/21						N
21-02560	11/16/21	10/21/21	156-769-141-0001-19											
1	10/21/21	156-769-141-0001-19	118.54	1-01-31-430-245	B Utilities - Internet	R	11/16/21	11/17/21						N
Vendor Total:				1,564.85										
w0000017	w.B. Mason													
21-02332	10/20/21	Personal Heater												
1	Personal Heater	59.99	1-01-22-195-145	B Code: Office Supplies	R	10/20/21	11/15/21			224457374			N	
21-02344	10/21/21	OEM office supplies												
1	OEM office supplies	69.99	1-01-25-252-145	B OEM: Office Supplies	R	10/21/21	11/16/21			224790695			N	
21-02360	10/25/21	earplugs - dpw												
1	earplugs - dpw	62.98	1-01-26-315-100	B Vehicle Mainten Maintenance of Motor Veh	R	10/25/21	11/15/21			224622989			N	
Vendor Total:				192.96										
XTEL0005	Xtel, Inc.													
21-02460	11/03/21	Nov'21 inv.213041507												
1	Nov'21 inv.213041507	2,947.48	1-01-31-430-240	B Utilities - Telephone	R	11/03/21	11/16/21			213041507			N	
Vendor Total:				2,947.48										
<hr/>														
Total Purchase Orders:		142	Total P.O. Line Items:		213	Total List Amount:		395,800.08	Total Void Amount:		0.00			

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Vendor #	Name										
PO #	PO Date	Description	Contract	PO Type		First	Rcvd	Chk/Void		1099	
Item	Description	Amount	Charge Account	Acct Type	Description	Stat/Chk	Enc Date	Date	Date	Invoice	Excl

Totals by Year-Fund Fund Description	Fund	Budget Rcvd	Budget Held	Budget Total	Revenue Total	G/L Total	Total
CURRENT FUND	0-01	84.00	0.00	84.00	0.00	0.00	84.00
CURRENT FUND	1-01	210,727.61	0.00	210,727.61	0.00	0.00	210,727.61
CAPITAL FUND	C-04	184,580.47	0.00	184,580.47	0.00	0.00	184,580.47
GRANT FUND	G-02	408.00	0.00	408.00	0.00	0.00	408.00
Total of All Funds:		<u>395,800.08</u>	<u>0.00</u>	<u>395,800.08</u>	<u>0.00</u>	<u>0.00</u>	<u>395,800.08</u>

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

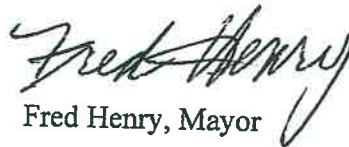
Re: Manhattan Beach Phase 1 Urban Renewal LLC (the "Entity")

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 2021-20
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**”).

WITNESSETH:

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: _____

ACKNOWLEDGMENT

STATE OF NEW JERSEY :

: SS

COUNTY OF MIDDLESEX :

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by the City of South Amboy in the County of Middlesex, State of New Jersey, by Mayor Fred Henry, on behalf of the City.

Notary Public

EXHIBIT A

METES AND BOUNDS DESCRIPTION OF THE LAND

EXHIBIT B
ORDINANCE



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

ORDINANCE 2021-18
**AN ORDINANCE AMENDING ARTICLE XI OF THE SOUTH
AMBOY CITY CODE TO ESTABLISH LEVELS OF STAFFING
AND CREATE ADMINISTRATIVE DIVISIONS WITHIN THE
SOUTH AMBOY POLICE DEPARTMENT**

WHEREAS, N.J.S.A. 40A:14-118 authorizes the City Council of the City of South Amboy, Middlesex County, to and establish such members, officers and personnel as shall be deemed necessary for the South Amboy Police Department, and to prescribe their powers, functions and duties as the governing body shall deem necessary for the effective government of the force; and

WHEREAS, it is the determination of the Mayor and Council that to meet current and future needs of the residents of South Amboy there should be a change in personnel organization structure within the Department; and

WHEREAS, it is the belief of the Mayor and Council that establishment of Administrative Divisions within the Police Department is appropriate and necessary for effective government of the Police Department; and

WHEREAS, the Mayor and Council acknowledge and respect the authority and duties bestowed upon the Chief of Police by N.J.S.A. 40A:14-118;

NOW, THEREFORE, BE IT ORDAINED that Article XI of the Code of the City of South Amboy, entitled "Department of Police" is hereby amended as follows:

§5-85. Powers and duties of Chief of Police.

Add: "E. Provide an administrative chart with assignments of all police personnel no less than once a year or as changes are made.

§5-87 Chief of Police as head of Police Department and establishing a line of authority in the Department.

Repeal Subsection 5-87A and replace with:

A. The Chief of Police shall be the head of the Police Department and directly responsible to the Mayor, as the appropriate authority and as set forth in Section 5-86 herein and §40A: 14-118 of the laws of the State of Jersey.

Repeal Subjection 5-87B and replace with:

B. The Police Department shall have the following line of authority, in descending order,

with the maximum personnel in each such office:

- | | |
|-------------------------------|-----|
| 1. Chief of Police | 1 |
| 2. Captain | 1 |
| 3. Lieutenants | 3 |
| 4. Sergeants | 7 |
| 5. Patrol Officers/Detectives | 21. |

§5-89 (currently reserved) Add:

§5-89. ADMINISTRATION OF THE POLICE DEPARTMENT

Administration of the Police Department shall be divided into three (3) divisions. The composition of each division shall be determined by the Chief of Police.

A. ADMINISTRATIVE COMMAND STAFF/PATROL/UNIFORM DIVISION. RESPONSIBILITIES AND DUTIES.

There shall be an Administrative Division which shall be responsible for responding for police services, oversight of communications, technology, accreditation, dispatchers and all other duties as may be assigned by the Chief of Police consistent with this ordinance.

Members of this division shall keep accurate records of any and all incidents and promptly submit a written report to the supervisor in charge. The supervisor will promptly submit a written report to the Chief of Police.

B. DETECTIVE/INVESTIGATIVE DIVISION RESPONSIBILITIES AND DUTIES.

There shall be a Detective/Investigative Division which shall be responsible for all investigations and follow-up investigations of criminal activity, missing persons, and license and regulations and all other duties as assigned by the Chief of Police consistent with this ordinance.

The members of the division shall keep accurate records of any and all incidents and investigations and promptly submit a written report to the supervisor in charge.

The supervisor shall promptly submit a written report to the Chief of Police. All officers assigned to this Division shall be designated as detectives. It shall also be the responsibility of the Detective Division to control and supervise the evidence locker.

C. TRAFFIC SAFETY DIVISION RESPONSIBILITIES AND DUTIES.

There shall be a Traffic Safety Division which shall be responsible for overall traffic management, crossing guards, and pedestrian safety of the City, and all other duties as may be assigned by the Chief of Police consistent with this ordinance. The members of the division are

to keep accurate records of traffic offenders and offenses and to promptly submit a written report to the supervisor in charge. The supervisor shall promptly submit a written report to the Chief of Police.

The Chief of Police will submit a written report on the activities of the Police Department to the Mayor of the Mayor's designee at the end of each month.

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed as to such inconsistency only.

This Ordinance shall take effect after final passage and publication as provided by law.

MICHAEL GROSS
Council President

ATTEST:

APPROVED:

DEBORAH BROOKS
Municipal Clerk

FRED HENRY, Mayor

APPROVED AS TO FORM:

FRANCIS M. WOMACK, ESQ.
Director of Law

CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX

ORDINANCE NO. 2021-21

AN ORDINANCE AMENDING AND SUPPLEMENTING
ORDINANCE NO. 1036 ENTITLED "PARKING AND
TRAFFIC REGULATIONS FOR THE CITY OF SOUTH
AMBOY" IN THE COUNTY OF MIDDLESEX AND
STATE OF NEW JERSEY – 257 FIRST ST. - FENLON

BE AND IT IS HEREBY ORDAINED by the Council for the City of South Amboy, Middlesex County, New Jersey, on the Ordinance No. 1036, entitled "Parking and Traffic Regulations for the City of South Amboy" is hereby amended and supplemented as follows:

Add the Following:

ARTICLE V Handicapped Parking

Section 5-1 Special Parking for Handicapped

Section X Handicapped Parking

Add the Following:

NAME OF STREET

LOCATION

257 FIRST ST.

Sign to be placed 234 feet from the curb line of First Street/North Stevens Ave. in front of the residence at 257 First Street.

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistency only.

This ordinance shall take effect after final passage and publication as provided by law.

The Municipal Clerk shall serve a certified true copy of this Ordinance upon the South Amboy Police Department.

Deborah Brooks
Municipal Clerk

Introduced on First Reading: November 22, 2021
First Publication:
Approved on Final Reading:
Final Publication: