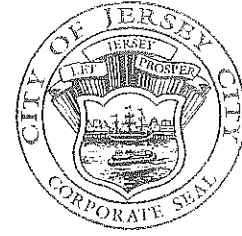


City Clerk File No. Ord. 19-127

Agenda No. 3.12 1st Reading

Agenda No. 4.12 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 19-127

TITLE: AN ORDINANCE GRANTING PERMISSION TO LMV WARREN STREET HOLDINGS, LP, ITS SUCCESSORS AND ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS IN THE PUBLIC RIGHTS-OF-WAY OF WARREN STREET AND STEUBEN STREET ADJACENT TO THE PROPERTY LOCATED AT 321 WARREN STREET, JERSEY CITY, NEW JERSEY, ALSO KNOWN ON THE TAX MAPS OF THE CITY OF JERSEY CITY AS BLOCK 13002, LOT 13.01.

WHEREAS, LMV Warren Street Holdings, LP ("LMV"), having offices located at 1 Evertrust Plaza, Suite 1206, Jersey City, New Jersey is the owner of the property located at 321 Warren Street, Jersey City, New Jersey and known as Block 13002, Lot 13.01, on the current tax maps of the City of Jersey City ("Property"); and

WHEREAS, pursuant to Resolution P18-064 (Exhibit A), the Planning Board granted site plan approval to develop an eighteen (18) story mixed use building with one hundred eighty (180) residential units, along with retail/commercial uses on the ground floor, dedicated artist space, a black box theater, and eighteen (18) parking spaces; and

WHEREAS, the approval of the Project, subject to the approval of the Jersey City Engineering Department and the City Council, includes the proposed construction of Private Improvements in the Warren Street and Steuben Street public rights-of-way to provide for the installation of flood proofing measures through the use of the Cupolex System ("Private Improvements"); and

WHEREAS, the Private Improvements are more particularly depicted and described in Exhibit B (the franchise areas identified on the survey), Exhibit C (the metes and bounds descriptions of the respective Warren Street and Steuben Street franchise areas), Exhibit D (Engineering Construction Plans), and Exhibit E (franchise plan showing the proposed improvements to the respective franchise areas) attached hereto; and

WHEREAS, the construction of the Private Improvements to install flood proofing measures within the Warren Street and Steuben Street right-of-ways will promote public purposes and the utility of the Property and neighboring properties; and

WHEREAS, LMV is required to file the Petition for a Franchise Ordinance to construct and place these Private Improvements; and

WHEREAS, there will remain sufficient area in the rights-of-way for pedestrian use and the proposed Private Improvements will not impede or have a negative impact on typical pedestrian use; and

WHEREAS, LMV, has filed a petition for relief and represented to the Municipal Council of the City of Jersey City that the passage of this Ordinance is in the best interests and essential for the completion of the construction of the development; and

WHEREAS, after due notice was given in accordance with law, a public hearing was held on the Petition filed by LMV to grant permission to construct the Private Improvements within the Steuben Street and Warren Street public rights-of-way for the following purposes:

1. The contemplated Private Improvements will include the installation of flood proofing measures within the Steuben Street and Warren Street rights of way, through the use of the Cupolex system, which will promote public purposes and utility of the Property and the immediate surrounding area; and

WHEREAS, all costs associated with the Private Improvements will be incurred by LMV; and

WHEREAS, the installation and maintenance of the Cupolex System shall be responsibility of LMV, subject to a developer's agreement between LMV and the City of Jersey City, which shall be approved as to final form by the Jersey City Law Department and the Jersey City Department of Engineering; and

WHEREAS, the Jersey City Zoning Officer and Building Department can approve the construction of the Private Improvements conditioned upon LMV being granted a franchise ordinance by the City Council of the City of Jersey City; and

WHEREAS, a franchise ordinance is required to permit the completion of the construction of the Private Improvements within the public rights-of-way; and

WHEREAS, by reason of the character of the development of the area within which this Property is situated, the said improvements will enhance public purposes, and the aesthetic and character of the Property and greatly benefit Jersey City and the surrounding neighborhood; and

WHEREAS, the public interest will be served by said improvements, which will be of great benefit to the citizens of Jersey City and Hudson County and the rights of the public will not be injuriously or adversely affected by the requested relief;

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

SECTION I. Permission be, and is hereby granted to LMV, its successors and assigns, to complete Private Improvements to a portion of lands located within the public rights of way of Steuben Street and Warren Street that are adjacent to 321 Warren Street, Jersey City, New Jersey and known as Block 13002, Lot 13.01, on the current tax maps of the City of Jersey City, said areas being more particularly described on the survey, the metes and bounds descriptions, and the franchise plan attached hereto as Exhibits B, C, D, and E respectively.

1. The Private Improvements will include the installation of Private Improvements in the Warren Street and Steuben Street public rights-of-way through the use of the Cupolex System to provide for private installation of flood proofing measures within the Warren Street and Steuben street public right of ways.
2. There will remain sufficient area in the right-of-way for pedestrian use.
3. The Private Improvements will be constructed consistent with the development plans approved by the Jersey City Planning Board, the Jersey City Zoning Officer and Building Department.
4. All costs associated with the installation and maintenance of the Private Improvements will be incurred by LMV.
5. The Private Improvements are necessary to construct the proposed development consistent with the development approvals and will greatly benefit LMV's Property and the surrounding neighborhood.
6. The Jersey City Engineering Department has approved the proposed Private Improvements, and the Jersey City Engineering Department shall provide its approval of the final plans prior to construction commencing.
7. LMV shall enter into a development agreement to memorialize LMV's obligations and liability for the installation and maintenance of the Private Improvements, which shall be approved as to final form by the Jersey City Law Department and the Jersey City Department of Engineering.

SECTION II. All the work herein authorized shall be done under the supervision of the proper department or departments of the City of Jersey City. Further, all the work herein authorized shall comply with any State of New Jersey Uniform Construction Code requirements. The construction plans shall be submitted to the City Engineer for his review and comments prior to the start of construction. After construction there shall remain no damage to the sidewalk or roadway or interference with the free and safe flow of pedestrian traffic and vehicular traffic. LMV, and its successors and assigns, shall maintain all improvements installed by it for the entire term of this Franchise at no cost to the City.

SECTION III. This Ordinance shall remain in full force and effect for a period of twenty (20) years subject to the City of Jersey City's reservation of rights to make modifications to the public right of way area so long as any such modifications do not affect pedestrian or vehicular use of the Steuben Street or Warren Street rights-of-way. This Ordinance shall take effect upon final passage and publication according to law. In the event that the Municipal Council determines that this Ordinance must be canceled in whole or in part because of a public purpose, the City reserves the right to cancel this Ordinance or any part thereof by giving written notice to LMV one year prior to the date of cancellation.

SECTION IV. All costs and expenses incident to the introduction, passage and publication of this Ordinance shall be borne and paid by said LMV.

SECTION V. In accepting the privileges of this Ordinance and the installation, maintenance and use hereby authorized, LMV, its successors and assigns hereby agree to assume full, complete and undivided responsibility for any and all injury or damage to persons or property by reason of said installation, maintenance and use, and to indemnify and hold the City of Jersey City harmless from all injury or damage to persons or property by reason of such installation, maintenance and use (except such injury or damage which is caused by the negligence or misconduct of the City or its officers, employees or agents) for the term of this Ordinance. LMV, its successors and assigns, shall maintain in effect, during the term of this franchise, liability insurance naming the City of Jersey City, its officers and employees as additional insured, covering the use and occupancy of the public property subject to this franchise. A certificate of insurance, in the amount of \$2,000,000.00 in general liability insurance, or in such amount and type as the City's Risk Manager may reasonably require from time to time in a form deemed acceptable by the City's Risk Manager, shall be delivered to the Risk Manager before use or occupancy of the premises subject to this Franchise Ordinance.

SECTION VI. This Ordinance shall not become effective unless an acceptance hereof in writing is filed by LMV with the City Clerk. In the event that LMV shall not file with the City Clerk its acceptance in writing of the provisions of this Ordinance within 30 days after receiving notice of its passage, this Ordinance shall become void and be of no effect.

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

SECTION VIII. An easement for the duration of this Ordinance is reserved for the benefit of the City of Jersey City and all public utility companies including any cable television company as defined in the Cable Television Act, P.L. 1972, c. 186 (c. 48:5A-1 et seq.) for the purpose of ingress and egress over and upon the area subject to this Franchise Ordinance in order to maintain, repair or replace existing utility facilities including water lines, sewer lines, gas lines and telephone, electrical and cable television wires and poles which may be located either beneath or above the surface of the area subject to this Franchise Ordinance.

SECTION IX. For the rights and privileges herein granted, said beneficiaries hereunder, their successors and assigns, shall pay annually to the City of Jersey City the sum of One Dollar (\$1.00), which payment shall be made annually on the 1st day of July next succeeding the time when this Ordinance shall become effective and on each first day of July thereafter until the termination of this Ordinance.

SECTION X.

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

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

C. This Ordinance shall take effect at the time and in the manner as provided by law.

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

APPROVED AS TO LEGAL FORM



Corporation Counsel

APPROVED:



Business Administrator

Certification Required ☐

Not Required ☐

PETITION

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

Your Petitioner, LMV, having offices located 1 Evertrust Plaza, Suite 1206, Jersey City, New Jersey 07302, respectfully says that:

1. Petitioner is the owner of the property located at 321 Warren Street, Jersey City, New Jersey and known as Block 13002, Lot 13.01, on the current tax maps of the City of Jersey City (the "Property").
2. The Petitioner is developing the Property into an eighteen (18) story mixed use building with one hundred eighty (180) residential units, along with retail/commercial uses on the ground floor, dedicated artist space, a black box theater, and eighteen (18) parking spaces ("Project").
3. Pursuant to P18-064, the Jersey City Planning Board approved the development plans for the Project.
4. The Petitioner has proposed additional off-site Private Improvements within the Steuben Street and Warren Street public rights-of-way to address stormwater, flooding, and drainage issues in the immediate area "(Private Improvements)".
5. The Planning Board approved the additional Private Improvements within the public rights-of-way of Steuben Street and Warren Street provided the Petitioner received any additional necessary approvals from the City of Jersey City for the installation of the Private Improvements.
6. The Petitioner has consulted with the Jersey City Engineering Department with regard to the proposed Private Improvements to address the stormwater, flooding, and drainage issues.
7. The Jersey City Engineering Department supports the proposed Private Improvements consistent with the plans/exhibits attached to the proposed ordinance, and subject to a development agreement in substantially a similar form of agreement ("Development Agreement") attached to the proposed ordinance.
8. Petitioner proposes to make the following Private Improvements within the areas of the Steuben Street and Warren Street public rights-of-way:

A. The contemplated improvements will include Private Improvements being constructed

consistent with the Cupolex System in the Warren Street and Steuben Street public rights-of-way to provide for the installation of flood proofing measures.

- B. All costs associated with these improvements will be incurred by the Petitioner, and there being no objections thereto.
 - C. The installation and maintenance of the Cupolex System shall be the responsibility of the Petitioner consistent with the Development Agreement, which shall be approved as to final form by the Jersey City Law Department and the Jersey City Department of Engineering.
9. The Jersey City Planning Board has conditionally approved the Private Improvements conditioned upon the Private Improvements being approved by the Jersey City Engineering Department and the Petitioner being granted a franchise ordinance by the City Council of the City of Jersey City to install the Private Improvements.
10. The contemplated Private Improvements are a benefit to the Project and immediate area, and will greatly benefit the Petitioner's property and the surrounding area and neighborhood.

WHEREFORE, your Petitioner respectfully petitions for itself, its successors and assigns, for the enactment of a Franchise Ordinance to allow it to make the Private Improvements within the public rights-of-way of Warren Street and Steuben Street, all as more particularly shown on the plans annexed to the proposed ordinance and made a part hereof.

By: _____
o/b/o LMV Warren Street Holdings, LP
Charles J. Harrington, III, Esq.,
Attorney for the Petitioner

**RESOLUTION OF THE PLANNING BOARD
THE CITY OF JERSEY CITY**

Exhibit A

APPLICANT: LMV WARREN STREET HOLDING, LP

FOR: ADMINISTRATIVE AMENDMENT APPROVAL
321 WARREN STREET, JERSEY CITY, NEW JERSEY
BLOCK 13002, LOT 13.01

CASE NO.: P18-064

WHEREAS, the Applicant, LMV Warren Street Holding, LP, (the Applicant), per Connell Foley, LLC, (Charles J. Harrington, III, Esq., appearing) made an application to the Planning Board of the City of Jersey City, County of Hudson and State of New Jersey for Administrative Amendment approval to a Final Major Site Plan Approval, to wit, Calendar No. P18-064, for an approval to provide stairs and an access ramp to the residential lobby within the property setback; to increase the overall height of the building by 2.5"; reconfigure the residential lobby; to reduce the on-site parking by 3 parking spaces; and to provide for changes to improve right-of-way drainage, with regard to the property located at 321 Warren Street, Jersey City, New Jersey, also known on the Jersey City Tax Maps as Block 13002, Lot 13.01: and

WHEREAS, the proposed amendments by the Applicant are minor in nature compared to the overall project; and

WHEREAS, the Division of Planning and the Planning Board have made a determination that the proposed amendments can be reviewed administratively, and that a formal application is not required; and

WHEREAS, it appears that due notice of a hearing on the above said application before the Planning Board of the City of Jersey City, on June 5, 2018, at 5:30 p.m., was duly published as prescribed in the Jersey City Land Development Ordinance ("JC LDO") and the Municipal Land Use Law; and

WHEREAS, the Applicant has submitted proof that it has complied with the applicable procedural requirements including the payment of fees and public notices; and

WHEREAS, the Applicant and its witnesses first having been sworn and all testimony having been formally heard for this application; and

WHEREAS, after consideration of the application and the testimony presented at the meeting, the Planning Board has made the following findings of fact:

FINDINGS OF FACT

1. The Applicant, LMV Warren Street Holding, LP, filed an application for Administrative Amendment approval with regard to the property located at 321 Warren Street, Jersey City, New Jersey, also known on the Jersey City Tax Maps as Block 13002, Lot 13.01.
2. The subject property located within the Southern Edge Transition Zone district of the Powerhouse Arts District Redevelopment Plan ("Redevelopment Plan") area. The development is currently under construction.
3. The Applicant received approval to construct an eighteen (18) story mixed-use building with up to one hundred and eighty (180) residential units, along with retail/commercial uses on the ground floor; and dedicated artist space, a black box theater on the second floor and eighteen (18) parking spaces.
4. The purpose of the proposed amendments is to address and to mitigate flooding issues that might affect the development. The amendments include the following:

a). Raise the building 2'5" to the maximum permitted height; raise the residential lobby slab elevation by 2'5"; and raise the retail entry by 4" due to sidewalk slope regrading.

b). A ramp and stairs are being added to the residential lobby entry within the property setback. This also results in the lobby entrance being further setback. As a result of the further setback of the residential lobby, the following are also being changed:

- i) The exterior lobby portal was redesigned to accommodate the ramp, stairs, and new entry;
- ii) The Leasing Center, Fire Command Center, Mail Room, Trash Room, and Package Room were reconfigured; and
- iii) The interior reconfiguration has resulted in the loss of three (3) parking spaces (no parking is required in the first instance).

c. Street resurfacing and curb/sidewalk reconstruction in Steuben Street and Warren Street to achieve crowned street profiles and improve drainage at intersection of Steuben Street and Warren Street.

5 The requested amendments listed herein and on the development plans conform to the Redevelopment Plan, and none of the proposed material changes are substantial.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the City of Jersey City, County of Hudson and State of New Jersey, for the foregoing reasons, approves the within application for Administrative Amendment approval, to wit, Calendar No. P18-064, to provide stairs and an access ramp to the residential lobby within the property setback; to increase the overall height of the building by 2.5"; to reconfigure the residential lobby; to reduce the on-site parking by 3 parking spaces; and to provide for changes to improve right-of-way drainage, with regard to the property located at 321 Warren Street, Jersey City, New Jersey, also known on the Jersey City Tax Maps as Block 13002, Lot 13.01, and in accordance with the submitted plans and testimony submitted to the Planning Board of the City of Jersey City and subject to the following conditions:

1. The Applicant will work with the Division of Planning Staff and the Jersey City Engineering Department regarding the design standards with the crowning of the adjacent roads.
2. All conditions of approval related to Case Nos. P15-076, P15-076.1, and P15-076.2 remain in full force and effect.


APPLICANT: LMV WARREN STREET HOLDING, LP

FOR: ADMINISTRATIVE AMENDMENT APPROVAL
321 WARREN STREET, JERSEY CITY, NEW JERSEY
BLOCK 13002, LOT 13.01

CASE NO.: P18-064

VOTE: 7 - 0

COMMISSIONER:	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Christopher Langston, Chairman	X			
Eduardo Torres, Commissioner	X			
Joyce E. Waterman, Commissioner	X			
Michael Sims, Commissioner	X			
Eric C. Fleming, Commissioner	X			
Vijay Desai, Commissioner	X			
Arnold Bettinger, Commissioner	X			


CHRISTOPHER LANGSTON, CHAIRMAN
JERSEY CITY PLANNING BOARD


MATT WARD, SECRETARY
JERSEY CITY PLANNING BOARD

Approved as to Legal Form


SANTO ALAMPI, ESQ.

DATE OF HEARING:
DATE OF MEMORIALIZATION:

June 5, 2018
June 19, 2018

Exhibit C

Chester, Ploussas, Lisowsky Partnership, LLC

PLANNING * ARCHITECTURE * ENGINEERING * SURVEYING

95 Matawan Road, Second Floor, Matawan, NJ 07747

Mailing Address: P.O. Box 943, Matawan, NJ 07747

(732) 566-0297 * Fax (732) 566-5283

19011

March 21, 2019

Description of a Proposed Franchise Area over Warren Street and Steuben Street adjacent Lot 13.01, Block 13002 situated in the City of Jersey City, Hudson County, New Jersey.

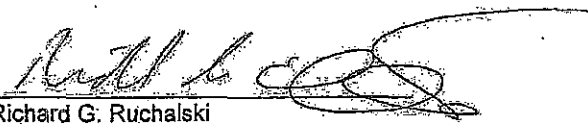
Beginning at a point formed by the intersection of the northwesterly sideline of Warren Street (60 ft. wide R.O.W.) and the northeasterly sideline of Steuben Street (60 ft. wide R.O.W.), and from said Point or Place of Beginning, thence;

1. Along said northwesterly sideline of Warren Street (60 ft. wide R.O.W.) and along Lot 13.01, Block 13001, North 17° 14' 00" East – 135.00 feet to a point, thence;
2. Running into Warren Street, South 72° 13' 00" East – 11.00 feet to a point, thence;
3. Still in Warren Street and running parallel to and offset 11.00 ft. southeasterly from the northwesterly sideline of Warren Street (course #1), South 17° 47' 00" West – 134.56 feet to a point of curvature, thence;
4. Still in Warren Street and running into aforesaid Steuben Street southwesterly on a curve to the right, having a radius of 15.00 feet, an arc length of 27.09 feet and a chord bearing and distance of South 69° 31' 00" West – 23.55 feet to a point of tangency, thence;
5. In Steuben Street and running parallel to and offset 15.50 ft. southwesterly from the the northeasterly sideline of Steuben Street, North 58° 45' 00" West – 81.01 feet to a point, thence;
6. Still in Steuben Street, North 31° 15' 00" East – 15.50 feet to a point in the northeasterly sideline of Steuben Street, thence;
7. Along said northeasterly sideline of Steuben Street and along Lot 13.01 Block 13001, South 58° 45' 00" East – 85.00 feet to the Point or Place of Beginning.

Area of Proposed Franchise Area over Warren Street and Steuben Street = 2,939 Square Feet.

Subject to Easement and/or Restrictions of Record.

The above description is in accordance with a map entitled "Franchise Map, Lot 13.01, Block 13002, Steuben Street & Warren Street, City of Jersey City, Hudson County, New Jersey" dated March 21, 2019 as prepared by Chester, Ploussas, Lisowsky Partnership, LLC, Engineers and Surveyors, Matawan, New Jersey.



Richard G. Ruchalski
Professional Land Surveyor
License No. 34875
Certificate of Authorization
No. 24GA28159000

Ordinance of the City of Jersey City, N.J.



ORDINANCE NO. Ord. 19-127
TITLE: 3.12 SEP 11 2019 4.12 SEP 25 2019

An franchise ordinance granting permission to LMV Warren Street Holdings, LP., its successors and assigns, to make private improvements in the public right-of-way of Warren Street and Steuben Street adjacent to the property located at 321 Warren Street, Jersey City, New Jersey, also known on the tax map of the City of Jersey City as Block 13002, Lot 13.01

RECORD OF COUNCIL VOTE ON INTRODUCTION SEP 11 2019 8-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	ABSENT			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	✓		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING SEP 25 2019 8-0											
Councilperson <u>RIVERA</u> moved, seconded by Councilperson <u>PRINZ-AREY</u> to close P.H.											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	✓		
BOGGIANO	✓			ROBINSON	ABSENT			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

SPEAKERS:

JAYSON BURG
PHIL CARRINGTON

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson _____ moved to amend* Ordinance, seconded by Councilperson _____ & adopted											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY				YUN				RIVERA			
PRINZ-AREY				SOLOMON				WATTERMANN			
BOGGIANO				ROBINSON				LAVARRO, PRES.			

RECORD OF FINAL COUNCIL VOTE SEP 25 2019 8-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	✓		
BOGGIANO	✓			ROBINSON	ABSENT			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on SEP 11 2019
Adopted on second and final reading after hearing on SEP 25 2019

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on SEP 25 2019

Robert Byrne, City Clerk

*Amendment(s):

APPROVED:
Rolando R. Lavarro, Jr., Council President

Date SEP 25 2019

APPROVED:
Steven M. Fulop, Mayor

Date OCT - 1 2019

Date to Mayor SEP 26 2019