

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

File No. Ord. 25-017
Agenda No. 3.9 (1st Reading)
Agenda No. 4.9 (2nd Reading and Final Passage)



AN ORDINANCE APPROVING A 23-YEAR TAX EXEMPTION AND AUTHORIZING A FINANCIAL AGREEMENT FOR A MULTI-SITE AFFORDABLE RENTAL PROJECT PREVIOUSLY RENOVATED BY ROSEVILLE AVENUE REDEVELOPMENT URBAN RENEWAL, PURSUANT TO THE NEW JERSEY HOUSING AND MORTGAGE FINANCE ACT OF 1983, AS AMENDED AND SUPPLEMENTED N.J.S.A. 55:14K-1, ET. SEQ. AND THE RULES PROMULGATED UNDER N.J.A.C. 5:80-1 ET SEQ.

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

WHEREAS, Roseville Avenue Redevelopment Urban Renewal, (the “Entity”) is qualified to do business under the provisions of the New Jersey Housing and Mortgage Finance Act of 1983, as amended and supplemented N.J.S.A. 55:14K-1, et. seq. and the rules promulgated under N.J.A.C. 5:80-1 et seq. (collectively the “Act” or the “HMFA Law”); and

WHEREAS, the Entity is the owner of certain properties designated as Block 13603, Lot 3 and Block 12606, Lot 1, on the City’s Official Tax map, and to be known as 352-364 Montgomery Street and 353-381 Montgomery Street, respectively, and more specifically described by metes and bounds, in the application (the “Property”); and

WHEREAS, the City granted BRUNSWICK ESTATES ASSOCIATES, (the “Original Entity”), a New Jersey limited liability partnership, a long term tax exemption for fifty (50) years, which is still in effect until 2033; and


WHEREAS, the property was later sold to Roseville Avenue Redevelopment Urban Renewal, LLC, (the Entity) a New Jersey limited liability company; and

WHEREAS, by an application dated October 30, 2024, the Entity applied for a 23-year long-term tax exemption for a previously renovated affordable rental project consisting of 131 units consisting of 40 one-bedrooms, 59 two-bedrooms, 22 three-bedrooms, and 10 four-bedrooms across 18 buildings. The Property serves low-income families that qualify for Section 8 housing, i.e., 100% of households earn 50% or less of Area Median Income; and


WHEREAS, Roseville Avenue Redevelopment Urban Renewal, has agreed to:

- 1. pay 11% of the estimated Annual Gross Revenue, which is estimated to be \$511,627 in the first year following the approval of this Ordinance by the Municipal Council; and
- 2. pay 13% of the Annual Gross Revenue, which is estimated to be \$667,582 starting in the fifth year following the approval of this Ordinance by the Municipal Council, and
- 3. pay an annual sum equal to 2% of each year’s Annual Service Charge as an Administrative Fee initially estimated at \$10,233; until the correct amount due from the applicant is determined by the auditor’s report, required to be submitted to the Director of Finance and the City Clerk, by the Financial Agreement. After the auditor’s report is accepted by the City’s Director of Finance , and within 90 days thereafter, the City and the Applicant will adjust any over or under payment so made, or needed to be made during the particular period covered by the auditor’s report; and
- 4. pay the non-accrued excess profit, if any, to the City each year;

APPROVED AS TO LEGAL FORM



Business Administrator



Corporation Counsel

An Ordinance approving a 23-year tax exemption and authorizing a financial agreement for a multi-site affordable rental project previously renovated by Roseville Avenue Redevelopment Urban Renewal, pursuant to the New Jersey Housing and Mortgage Finance Act of 1983, as amended and supplemented N.J.S.A. 55:14k-1, et. seq. and the rules promulgated under N.J.A.C. 5:80-1 et seq.

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

- 1.The Annual Service Charge as estimated, will initially generate revenue of approximately \$511,627 to the City;
- 2.The Project has stabilized and contributed to the economic growth of businesses in the surrounding area;
- 3.the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City.

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

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

WHEREAS, the Entity has initially complied with Executive Order 2002-005 concerning "Disclosure of Lobbyist Representative Status" by filing an appropriate letter in the Office of the City Clerk.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JERSEY CITY AS FOLLOWS:

A.The application of Roseville Avenue Redevelopment Urban Renewal, an entity qualified to do business under the provisions of the New Jersey Housing and Mortgage Finance Act of 1983, as amended and supplemented N.J.S.A. 55:14K-1, et. seq. and the rules promulgated under N.J.A.C. 5:80-1 et seq. a copy of which is on file in the office of the City Clerk, for Property designated as Block 13603, Lot 3 and Block 12606, Lot 1, and to be known as 391-413 Montgomery Street, and 451-489 Montgomery Street, respectively, more specifically described by metes and bounds in the application, is hereby approved.

B.The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement (the Financial Agreement). The Financial Agreement shall include at a minimum the following terms and conditions:

- 1.Term: 23 years from the adoption of the within ordinance.
2. Annual Service Charge: each year for years one through five, pay 11% of the estimated Annual Gross Revenue, which is estimated to be \$502,187 in the first year following Substantial Completion of the Project.
3. Annual Service Charge: each year for years six through twenty-three, pay 13% of the estimated Annual Gross Revenue, which is estimated to be \$655,259 in the first year following Substantial Completion of the Project.
- 4.Non-accrued annual excess profit, if any;
- 5.Administrative Fee: The Entity shall also pay an annual administrative fee to the City in addition to the Minimum or Annual Service Charge. This administrative fee shall be equal two percent (2%) of the yearly Annual Service Charge estimated to be \$10,223. It shall be payable and due on December 31st of each year and collected in the same manner as the Annual Service Charge.
- 6.The actual date of execution of the tax exemption agreement shall not affect, alter or amend the Entity's obligation to make payments according to the intervals set forth in Section 304-28 of the Municipal Code and the tax

An Ordinance approving a 23-year tax exemption and authorizing a financial agreement for a multi-site affordable rental project previously renovated by Roseville Avenue Redevelopment Urban Renewal, pursuant to the New Jersey Housing and Mortgage Finance Act of 1983, as amended and supplemented N.J.S.A. 55:14k-1, et. seq. and the rules promulgated under N.J.A.C. 5:80-1 et seq.

exemption agreement. Should the Entity fail to make timely payments, interest shall begin to accrue at the rate set forth in the financial agreement.

7.The Financial Agreement shall be executed by the Entity no later than 90 days following adoption of the within Ordinance. Failure to comply shall result in a repeal of the herein Ordinance and the tax exemption will be voided unless otherwise extended by the City.

8.The following occurrences are express conditions of the granting of this tax exemption to be performed by the Entity.

9. The Entity shall pay the existing Annual Service Charge until the new tax exemption's ordinance is adopted by the municipal council.

10. The Entity agrees to terminate the remaining years of their existing long term tax exemption upon the adoption of this Ordinance by the Municipal Council.

11.The Entity shall not, without prior consent of the Municipal Counsel of the City of Jersey City, convey, mortgage or transfer all, or any part of the project so as to sever, disconnect or divide the improvement from the land embraced within the project.

12.The Entity shall pay all outstanding taxes, charges, fees and all outstanding water and sewer and sewer charges within thirty (30) days of the adoption of this Ordinance.

13.The Entity shall provide proof of fee simple ownership to the subject property by submitting a filed copy of the deed to the Tax Assessor's Office and the Department of Law.

14.The Entity shall secure the required financing prior to the adoption of this ordinance.

15. The Entity shall submit to the City of Jersey City's Department of Development or its assigned agent all documentation which it is or has been required to submit and maintain in accordance with the terms and conditions of the financing provided by the New Jersey Housing Mortgage and Finance Agency and the New Jersey Department of Community Affairs (DCA) and all other sources of funding received.

C.The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Tax Assessor and the Director of the Division of Local Government Services, Chief Financial Officer of the county and to the County Counsel, for information purposes, within ten (10) calendar days following the later of the effective date of an ordinance following its final adoption by the governing body approving the tax exemption or the execution of the financial agreement by the Entity.

D.The application is on file with the office of the City Clerk. The Financial Agreement shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary.

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

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

G.This ordinance shall take effect immediately and, in the manner provided by law.

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

An Ordinance approving a 23-year tax exemption and authorizing a financial agreement for a multi-site affordable rental project previously renovated by Roseville Avenue Redevelopment Urban Renewal, pursuant to the New Jersey Housing and Mortgage Finance Act of 1983, as amended and supplemented N.J.S.A. 55:14k-1, et. seq. and the rules promulgated under N.J.A.C. 5:80-1 et seq.

RECORD OF COUNCIL VOTE ON INTRODUCTION – Feb 13 2025						
RIDLEY	AYE	SALEH	AYE	DEGISE	AYE	9-0
PRINZ-AREY	AYE	SOLOMON	AYE	RIVERA	AYE	
BOGGIANO	AYE	GILMORE	AYE	WATTERMAN, PRES	AYE	

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING – Feb 26 2025						
RIDLEY	AYE	SALEH	AYE	DEGISE	AYE	9-0
PRINZ-AREY	AYE	SOLOMON	AYE	RIVERA	AYE	
BOGGIANO	AYE	GILMORE	AYE	WATTERMAN, PRES.	AYE	

SPEAKERS:
John Robinson, Trina Hinton, Cynthia Maron & Lavern Webb Washington

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY –						
RIDLEY		SALEH		DEGISE		
PRINZ-AREY		SOLOMON		RIVERA		
BOGGIANO		GILMORE		WATTERMAN, PRES.		


RECORD OF FINAL COUNCIL VOTE – Feb 26 2025						
RIDLEY	AYE	SALEH	AYE	DEGISE	AYE	8-1
PRINZ-AREY	AYE	SOLOMON	NAY	RIVERA	AYE	
BOGGIANO	AYE	GILMORE	AYE	WATTERMAN, PRES.	AYE	

Adopted on first reading of the Council of Jersey City, N.J. on **Feb 13 2025**
Adopted on second and final reading after hearing on **Feb 26 2025**


This is to certify that the foregoing Ordinance was adopted
by the Municipal Council at its meeting on Feb 26 2025



City Clerk



Joyce E. Watterman, President of Council
Approved: Feb 26 2025



Steven M. Fulop, Mayor
Date to Mayor: Feb 27 2025
Approved: Feb 27 2025

An Ordinance approving a 23-year tax exemption and authorizing a financial agreement for a multi-site affordable rental project previously renovated by Roseville Avenue Redevelopment Urban Renewal, pursuant to the New Jersey Housing and Mortgage Finance Act of 1983, as amended and supplemented N.J.S.A. 55:14k-1, et. seq. and the rules promulgated under N.J.A.C. 5:80-1 et seq.

FACT SHEET -

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

Project Manager

John McKinney, Attorney		5229	jmckinney@jcnj.org
Department	Department of Law		
Division	Corporation Counsel		

Note: Project Manager must be available by phone during agenda meeting (Wednesday prior to council meeting @ 1:00 p.m.)

Meeting	Regular Meeting of Municipal Council - Feb 13 2025
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Purpose

To authorize a tax abatement pursuant to the NJHMFA tax exemption statute to run with financing provided by the NJHMFA.

Cost (Identify all sources and amounts)

Contract term (include all)

N/A

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ATTACHMENTS:

Financial Agreement Roseville Avenue 2-21-25 revised KLG edits.(322555066.1)
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Approved by
John McKinney, Attorney
John Metro, Business Administrator

Status:
Approved - Feb 04 2025
Approved - Feb 05 2025

TIER 5A - FINANCIAL AGREEMENT (UP TO 23 YEAR)

Rev. 12-16-13; 12/15/15

Housing and Mortgage Finance Act

N.J.S.A. 55:14K-1, et seq.

(Affordable Housing)

Re:

**391-413 Montgomery Street and 451-489 Montgomery
Street, Street, Jersey City, New Jersey
Approximately 4 Acres
Block 13603 Lot 3; Block 12606, Lot 1**

PREAMBLE

THIS FINANCIAL AGREEMENT (“Agreement”) is made the ____ day of _____, 2024 by and between **ROSEVILLE AVENUE REDEVELOPMENT URBAN RENEWAL LLC**, a New Jersey limited partnership, a legal entity qualified to do business under the laws of the State of New Jersey including the New Jersey Housing and Mortgage Finance Act of 1983, as amended and supplemented N.J.S.A. 55:14K-1, et. seq. and the rules promulgated under N.J.A.C. 5:80-1 et seq. (collectively the “Act” or the “HMFA Law”) having its principal office at One Washington Mall, Suite 500, Boston, MA 02108 ~~30 Hudson Yards, 72nd Floor, New York, New York 10001~~ and its successors and assigns (the “Entity”), and the **CITY OF JERSEY CITY**, a Municipal Corporation of the State of New Jersey, having its principal office at 280 Grove Street, Jersey City, New Jersey 07302 [City].

RECITALS

WITNESSETH:

WHEREAS, the Entity is the Owner pursuant to Deed dated, ____ of certain property designated as **Block 13603, Lot 3 and Block 12606, Lot 1, more commonly known by the street address of 391-413 Montgomery Street and 451-489 Montgomery Street, Jersey City, New Jersey** and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement; and

WHEREAS, the City granted BRUNSWICK ESTATES ASSOCIATES, (the Original Entity), a New Jersey limited liability partnership, a long term tax exemption for fifty (50) years, which is still in effect until ~~2033~~2032; and

WHEREAS, the property was later sold to ROSEVILLE AVENUE REDEVELOPMENT URBAN RENEWAL, LLC, (the Entity) a New Jersey limited liability company; and

WHEREAS, on December 11, 2015, the Entity and the City entered into an agreement consenting to the assignment of the original tax exemption to the Entity (the Assignment); and

WHEREAS, -the Entity requests an additional long term tax exemption of twenty three (23) years; and

WHEREAS, the Entity agrees to terminate the remaining years of their existing long term tax exemption upon the adoption of the proposed long term tax exemption Ordinance by the Municipal Council; and

WHEREAS, the Entity and/or its predecessors previously rehabilitated a multi-building, multi-story project with approximately 131 residential rental units (the “Project”); and

WHEREAS, the property where the Project is located has been in operation since approximately 1982; and

WHEREAS, on October 2024, the Entity or an affiliate thereof filed an Application with the City for a tax exemption for the Project; and

WHEREAS, by the adoption of Ordinance ____ on _____, 2025, the Municipal Council approved a tax exemption for the Project and authorized the execution of a Financial Agreement; and

WHEREAS, the City made the following findings:

A. Relative Benefits of the Project when compared to the costs:

1. the real estate assessment of the property is \$37,648,800;

2. the current Annual Service Charge generates revenue of approximately \$307,500;
3. the new Annual Service Charge is estimated to be \$511,627 in the first year the Ordinance is approved by the Municipal Council of this tax exemption, which is 11% of the estimated Annual Gross Revenue;
4. the Annual Service Charge is expected to increase to \$667,582 in the fifth year after the Ordinance is approved by the Municipal Council of this tax exemption,, which is 13% of the estimated Annual Gross Revenue;
5. there will be an administrative fee of- 2% of each year's Annual Service Charge which is estimated to be \$10,233;
6. the Project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the occupants;
7. the City's Impact Analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

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

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

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

ARTICLE I - GENERAL PROVISIONS

Section 1.1 Governing Law

1. This Agreement is made pursuant to the authority contained in Section 37 of the Act (sometimes hereinafter the "HMFA Law") and an Ordinance of the Council of the Municipality dated _____ 2025, (the "Ordinance") and with the approval of the New Jersey Housing and Mortgage Finance Agency (hereinafter the "Agency"), as required by N.J.S.A. 55:14K-37, with regard to a tax exemption for a term, and on the other conditions, set forth herein.

Section 1.2 General Definitions

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

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

ii. Annual Service Charge - The amount the Entity has agreed to pay the City each year for municipal services supplied to the Project, which sum is in lieu of any taxes on the Improvements or Land.

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

iv. Certificate of Occupancy - A document, whether temporary or permanent, issued by the City authorizing occupancy of a building, in whole or in part, pursuant to N.J.S.A. 52:27D133.

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

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

vii. Effective Date - Shall mean the date on which this Agreement is executed and delivered by both parties.

viii. Entity - The term Entity within this Agreement shall mean Roseville Avenue Redevelopment Urban Renewal, which entity has been formed under New Jersey law, and qualified as required under the HMFA Law. It shall also include any subsequent purchasers or successors in interest of the Project, provided they are formed and operate under the Law.

ix. Improvements or Project - Any building, structure or fixture permanently affixed to the land and to be constructed and tax exempted under this Agreement. The Project is or will be situated on those parcels of land designated as set forth in the first WHEREAS clause in the Recitals to this Agreement.

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

xi. Land Taxes - The amount of taxes assessed on the value of land, on which the project is located. Land Taxes are exempt from taxation as provided herein and under the HMFA Law.

xii. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the sum of \$511,627 per year, which is equal to the estimated Annual Service Charge.

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

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

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

ARTICLE II - APPROVAL

Section 2.1 Approval of Tax Exemption

The City hereby grants its approval for a tax exemption for all the Improvements previously constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the HMFA Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: designated as , **Block 13603, Lot 3 and Block 12606, Lot 1, more commonly known by the street address of 391-413 Montgomery Street and 451-489 Montgomery Street, Jersey City, New Jersey**, and described by metes and bounds in Exhibit 1 attached hereto.

Section 2.2 Termination of existing Tax Exemption

The Entity agrees to terminate the remaining years of their existing long term tax exemption upon the adoption of this proposed long term tax exemption Ordinance by the Municipal Council.

Section 2.3 Ownership, Management and Control

The Entity represents that it is the current owner of the property. The Entity represents that the previously constructed Improvements will be used, managed and controlled for the purposes set forth in this Agreement ~~and any Redevelopment Agreement.~~

Section 2.4 Financial Plan

The Entity represents that the prior Improvements ~~shall be~~ were financed in accordance with the existing Financial Plan.

Section 2.5 Good Faith Estimate of Initial Sale Prices or Rents

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

Section 2.6 Mortgage / Regulatory Agreement

The terms of the Regulatory Agreement shall contain affordability controls consistent with New Jersey regulations. Within ninety (90) days after the date the Entity closes on any successor mortgage or Amended Regulatory Agreement, the Entity shall file with the City a fully executed copy of the recorded copy of the mortgage, and the Regulatory Agreement.

ARTICLE III - DURATION OF AGREEMENT

Section 3.1 Term

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for Twenty-three (23) years from the date of the adoption of Ordinance ____ on _____, 20__, which approved the tax exemption. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the Project is owned by a corporation or association formed and operating under the Law and the Project is restricted to or occupied by and rented to low and moderate income families at rents affordable to such families in accordance with the Regulatory Agreement.

ARTICLE IV - ANNUAL SERVICE CHARGE

Section 4.1 Annual Service Charge

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

i. Annual Service Charge: The Annual Service Charge, which is currently, \$307,500 and thereafter shall be equal to 11% of the Annual Gross Revenue for years one through five and 13% of the Annual Gross Revenue for years six through twenty-three.

~~i.~~

ii. The Minimum Annual Service Charge pursuant to Section 1.2(xii)(a) shall be due annually beginning on the effective date of this Agreement. The Minimum Annual Service Charge shall be the sum of \$511,627 per year, which is equal to the estimated Annual Service Charge.

iii. The Minimum Annual Service Charge pursuant to Section 1.2(xii)(b) shall be due annually. The Annual Service Charge shall commence on the first day of the month following the approval of the tax abatement. In the event the Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the unpaid amount shall bear the rate of 18% or the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid, whichever is higher.

Section 4.2 Land Tax

The Land shall be exempt from taxation as of the Annual Service Charge Start Date in accordance with the HMFA Law, provided however, that if such exemption of the Land is invalidated by a court of competent jurisdiction, then this Agreement shall remain in full force and effect and shall be reformed to provide that:

(a) Conventional taxes are assessed against the Land;

(b) The Entity shall be entitled to a credit against the Annual Service Charge for the amount, without interest, of the Land tax payment timely made ~~is~~ in the last four (4) preceding quarterly installments; and

- (c) In any year that the Entity fails to make any Land tax payments if and when they are due and owing, such delinquency shall render the Entity ineligible for any Land tax payment credits against the Annual Service Charge for that year. No credit will be applied against the Annual Service Charge for partial payments of Land taxes. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the Property pursuant to the Tax Sale Law and/or to declare a Default after notice and opportunity to cure as set forth in Section 8.2.

Section 4.3 Quarterly Installments / Interest

The Entity expressly agrees that the Annual Service Charge shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the Entity fails to pay the Annual Service Charge or any other charge due under this agreement, the unpaid amount shall bear the rate of 18% or the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid, whichever is higher.

Section 4.4 Administrative Fee

The Entity shall also pay an annual Administrative Fee to the City in addition to the Annual Service Charge. The Administrative Fee shall be calculated as 2% of each year's Annual Service Charge. This fee shall be payable and due on or before December 31st of each year, and collected in the same manner as the Annual Service Charge.

Section 4.5 Material Conditions

It is expressly agreed and understood that the timely payments of Annual Service Charges are Material Conditions of this Agreement.

ARTICLE V - ANNUAL REPORTS

Section 5.1 Accounting System

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

Section 5.2 Periodic Reports

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the Entity's accounting basis that the Agreement shall continue in effect, or as soon thereafter as the Entity receives its Auditor's Report, the Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to gross revenue, and the terms and interest rate on any mortgage(s) associated with the Project and such details as may relate to the financial affairs of the Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement.

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

C. The Entity shall submit to the City of Jersey City all documentation which is required to be submitted and maintained in accordance with the terms and conditions of the financing provided by the New Jersey Housing Mortgage and Finance Agency, the New Jersey Department of Community Affairs (DCA) and all other sources of funding received.

Section 5.3 Inspection/Audit

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

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

ARTICLE VI – ASSIGNMENT AND/OR ASSUMPTION

Section 6.1 Approval of Sale

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

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

Section 6.2 Transfer Application Fee

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

ARTICLE VII - COMPLIANCE

Section 7.1 Operation

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322555066.1

During the term of this Agreement, the Project shall be maintained and operated in accordance with the provisions of the HMFA Law. The Entity's failure to comply with the HMFA Law shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate the tax exemption. The parties acknowledge that N.J.S.A. Section 55L:14K-37(b) provides for termination of the exemption upon payment in full of the HMFA financing, ~~provided that~~ however the parties agree that the exemption shall continue beyond such date pursuant to Section 55:14K-37(c) of the HMFA Law.

Section 7.2 Disclosure of Lobbyist Representative

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

ARTICLE VIII - DEFAULT

Section 8.1 Default

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

Section 8.2 Cure Upon Default

Should the Entity be in Default, the City shall send written notice to the Entity of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The Entity shall have sixty (60) days, from receipt of the Default Notice, to cure any Default. However, the Default cannot be cured within sixty (60) days using reasonable diligence, the time to cure shall be extended.

Subsequent to such sixty (60) days, or any extension, the City shall have the right to terminate this Agreement in accordance with Section 9.1.

Should the Entity be in default due to a failure to pay any charges defined as Material Conditions in Section 4.5, or a sale of the Project occurs without the consent of the City, if required, the Entity shall not be subject to the default procedural remedies as provided herein but shall allow the City to proceed immediately to terminate the Agreement as provided in Article IX herein.

Section 8.3 Remedies Upon Default

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

All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against the Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

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

ARTICLE IX- TERMINATION

Section 9.1 Termination Upon Default of the Entity

In the event the Entity fails to cure or remedy the Default within the time period provided in Section 8.2, the City may terminate this Agreement upon thirty (30) days written notice to the Entity.

Section 9.2 Voluntary Termination by the Entity

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

Section 9.3 Conventional Taxes

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

ARTICLE X - DISPUTE RESOLUTION

Section 10.1 Arbitration

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

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

Section 10.2 Appeal of Assessment

The Entity shall not have the right to file a tax appeal against the assessed value of the Land or Improvements during the Term of this Agreement.

ARTICLE XI - WAIVER

Section 11.1 Waiver

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

ARTICLE XII - INDEMNIFICATION

Section 12.1 Defined

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

party thereto, to which intervention the Entity consents; the expense thereof to be borne by the City.

ARTICLE XIII- NOTICE

Section 13.1 Certified Mail

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

Section 13.2 Sent by City

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

Roseville Avenue Redevelopment Urban Renewal, LLC
One Washington Mall, Suite 500
Boston, MA 02108

Attn: David Ginsberg

dginsberg@winnco.com

With copy to:

K&L Gates LLP

One Newark Center, 10th Floor

Newark, NJ 07102

Attn: Jennifer Mazawey

Jennifer.mazawey@klgates.com

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

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

Section 13.3 Sent by Entity

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

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

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

ARTICLE XIV-SEVERABILITY

Section 14.1 Severability

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

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

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

ARTICLE XV - MISCELLANEOUS

Section 15.1 Construction

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

Section 15.2 Conflicts

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

Section 15.3 Oral Representations

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

Section 15.4 Entire Document

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

Section 15.5 Good Faith

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

ARTICLE XVI - EXHIBITS

Section 16.1 Exhibits

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

1. Metes and Bounds description of the Project;
2. Ordinance of the City authorizing the execution of this Agreement;
3. The Application with Exhibits;
4. Certificate of the Entity;
5. Certification of Ownership;
6. Good Faith Estimate of Initial Rents;
7. Architect's Certification of Actual Rehabilitation Costs;
8. Entity's Deed.

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

WITNESS

ROSEVILLE AVENUE
-REDEVELOPMENT
RENEWAL LLC

URBAN

ATTEST:

CITY OF JERSEY CITY

SEAN J. GALLAGHER
CITY CLERK

JOHN J. METRO
BUSINESS ADMINISTRATOR