

REGULAR COUNCIL MEETING
MAY 9, 2017

Council Chamber, Municipal Building
Irvington, N.J. – Tuesday Evening
May 9, 2017 - 8:00 P.M.

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call

Present: Vernal Cox, Charnette Frederic, Paul Inman, Sandra R. Jones, David Lyons

Absent: Renee C. Burgess (excused), October Hudley (excused)

President Lyons read the Statement of Proper Notice pursuant to the Sunshine Law.

4. Hearing of Citizens on Agenda Items Only (limited to three minutes per person and thirty minutes total)

There were no requests to be heard.

5. Hearing of Council Members

There were no requests to be heard.

6. Reports & Recommendations of Township Officers, Boards & Commissions

A. Reports

1. Minutes – Directors’ Meeting – April 26, 2017
2. Tax Collector – Monthly – March, 2017
3. Joint Meeting – I/I Cost Adjustment

7. Reports of Committees

A. Request for Proposals Results – Attorney for Sewer Project - April 20, 2017

C. Bills & Claims

Jones – Cox 1. Bill Lists

RESOLVED THAT THE BILLS AND CLAIMS AGAINST THE TOWNSHIP OF IRVINGTON FOR A PERIOD MAY 9, 2017, AS ENUMERATED ON THIS LIST FOR MATERIALS, SUPPLIES AND SERVICES FURNISHED, DELIVERED AND/OR

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PERFORMED HAVE BEEN CERTIFIED BY THE DEPARTMENTS AS CORRECT, EACH CLAIM AND PURCHASE ORDER HAVE BEEN VERIFIED AND REVIEWED FOR THE AVAILABILITY OF FUNDS, ACCURACY OF ACCOUNT CODING AND COMPLETENESS BY THE ADMINISTRATION, THEREFORE:

BE IT RESOLVED, BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON THAT THE FOLLOWING BE PAID BY THE CHIEF FINANCIAL OFFICER:

BILL LIST	\$2,109,608.56
TOTAL	\$2,109,608.56

Adopted
Absent: Burgess, Hudley

Jones – Cox 2. Payrolls

April 8, 2017 through May 5, 2017

REGULAR	OVERTIME	OTHER EARNED	TOTAL
\$669,906.89	\$18,647.78	\$56,984.24	\$745,538.91

April 8, 2017 through May 5, 2017

REGULAR	OVERTIME	OTHER EARNED	TOTAL
\$915,037.25	\$67,704.06	\$55,316.75	\$1,038,058.06

Adopted
Absent: Burgess, Hudley

9. Resolutions & Motions

A. Resolutions

Frederic – Lyons 1. Authorize Emergency Contract to Assist in Drawing Down Funds From the IDIS System - Ron Allen Consulting - Not To Exceed \$8,000.00

RESOLUTION TO AWARD AN EMERGENCY CONTRACT FOR IDIS GRANT CONSULTANT SERVICE

WHEREAS, Department of Economic Development is need of trained professional to draw down funds from the HUD IDIS system, and;

WHEREAS, the Department lacks the expertise necessary to perform this service and failure to retain a consultant will result in a direct impact on the Township's budget, and;

WHEREAS, the Director of Economic Development has declared an emergency and authorized the hiring of consultant to assist with the drawn down of funds from the IDIS system, and;

WHEREAS, Ron Allen Consulting, located at 15439 Reprise Terrace, Rockville, MD 20850 has the necessary qualifications and expertise to provide this service to the Township, and;

WHEREAS, this situation constitutes an emergency and the Mayor has approved said emergency, and;

WHEREAS, this service shall not exceed \$8,000.00, and;

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that it ratifies the decision of the Director of Economic Development and the Mayor of the Township of Irvington to authorize an emergency contract in the amount of \$8,000.00, with Ron Allen Consulting, 15439 Reprise Terrace, Rockville, MD 20850.

BE IT FURTHER RESOLVED, that the required certification of availability of funds C7-00226 in the amount of \$8,000.00 from account number T-21-41-850-16B-802 has been obtained from the Chief Financial Officer to purchase the equipment.

Adopted

Absent: Burgess, Hudley

Jones – Frederic 2. Authorize Emergency Contract for Animal Control Services – Associated Humane Society - \$50,960.04 Through August 28, 2017

RESOLUTION TO AWARD AN EMERGENCY CONTRACT FOR ANIMAL CONTROL SERVICE

WHEREAS, the Township is need of animal control service, to pick up, hold and, if necessary euthanize stray animals and provide other similar services, and;

WHEREAS, Associated Humane Society has provided this service to the Township and said contract expired on February 28, 2017, and;

WHEREAS, this situation constitutes a threat to public health, safety and welfare and the Director of Health has declared an emergency, and;

WHEREAS, the Director of Health has declared an emergency in writing for service for the Associated Humane Society to continue to provide animal control service until August 28, 2017, and;

WHEREAS, Associated Humane Society, 124 Evergreen Ave, Newark, NJ 07114, has provided a quote of \$50,960.04 for animal control service until August 28, 2017;

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that it ratifies the decision of the Director of Health to authorize an emergency contract in the amount of \$50,960.04 to provide animal control service to the Township until August 28, 2017

BE IT FURTHER RESOLVED, that the required certification of availability of funds in the amount of \$16,986.68 for two months of service was obtained from the Chief Financial Officer from account number 7-01-27-335-335-176 and the remaining balance of \$33,973.36 will be certified upon the adoption of the 2017 budget.

Adopted

Absent: Burgess, Hudley

Frederic – Jones 3. Award Bid for Resurfacing of Madison Avenue Based Upon Lowest Responsible Bid - J.A. Alexander, Inc. – Not to Exceed \$245,944.31

RESOLUTION TO AWARD A CONTRACT FOR THE RESURFACING OF MADISON AVENUE, STUYVESANT AVENUE TO WASHINGTON AVENUE

WHEREAS, the Township of Irvington received a Grant from the New Jersey Department of Transportation (NJDOT) Transportation Trust Fund program in the amount of \$390,637.00 for the Resurfacing of Madison Avenue, from Stuyvesant Avenue to Washington Avenue; and

WHEREAS, the Township engaged, in resolution DPW 16-0712-23, the professional services of Keller & Kirkpatrick to prepare plans to be publicly bid for this project; and

WHEREAS, bids for this project were publicly advertised and three bids for this project were received and publicly read on April 13, 2017; and,

WHEREAS, these bids were reviewed and it was determined that the bid of J.A. Alexander, Inc. of Bloomfield, NJ at their bid price of \$245,944.31, was the lowest responsible bid for this project and a project should be awarded to this firm for this project.

NOW, THEREFORE, BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that construction contract for the Resurfacing of Madison Avenue be awarded to J.A. Alexander, Inc. of Bloomfield, NJ at their bid price of \$245,944.31; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:34-5.2, the required Certificate of Availability of Funds No.C7-00220 for the above has been obtained from the Chief Financial Officer of the Township of Irvington and the appropriation to be charged for this expenditure is in the amount of \$245,944.31 is charged to Account No. G-02-xx-865-17A-001.

Adopted

Absent: Burgess, Hudley

Cox – Frederic 4. Authorize Payment Plan for Outstanding Municipal Lien - 761 Chancellor Avenue, Block 297.01, Lot 1 – Total Amount to Redeem – \$9,023.65 – Payable Within 24 Months

Redeem Municipal Held Lien in Installments

WHEREAS, N.J.S.A. 54:5-65 provides authority for the governing body to authorize redemption of a municipally held lien by installment payments to include principal and interest; and,

WHEREAS, David Fiorilli, owner of record of Block 297.01, Lot 1, also known as 761 Chancellor Avenue, Municipality of Irvington, is desirous of satisfying Tax Title Lien # 16-01184 in the amount of \$9,023.65 by the installment payment plan.

NOW, THEREFORE, BE IT RESOLVED, BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON, COUNTY OF ESSEX, STATE OF NEW JERSEY, hereby authorize an installment payment plan \$450.50, as set forth on the attached schedule and that in addition to said installments being promptly paid on the first of each month, for 24 months, all current year's taxes, subsequent taxes, assessments or other municipal liens imposed shall be promptly paid when due.

BE IT FURTHER RESOLVED, that the final payment shall be sufficient to include all amounts due the municipality and secured by the tax sale lien, except for current year's taxes, and shall include interest properly chargeable on the respective unpaid balances.

BE IT FURTHER RESOLVED, that if installment payments are regularly and promptly made in accordance with the attached schedule, then the municipality will suspend any action to cut off or foreclose the right of redemption, and will agree not to assign, transfer or otherwise alienate the tax title lien it holds.

BE IT FURTHER RESOLVED, if any unpaid installment remains unpaid after 30 days of due date, then the municipality may proceed to enforce or foreclose the tax sale lien, or sell, assign, transfer or alienate it and shall proceed only for the unpaid balance after proper credit of such installment payments as were made.

BE IT FURTHER RESOLVED, that a certified copy of this resolution, along with an attached installment schedule will be forwarded to the Tax Collector and the property owner.

Adopted

Absent: Burgess, Hudley

Cox – Jones 5. Authorize Increase in Change Fund for Tax Collector's Office From \$200.00 to \$350.00

REQUEST APPROVAL OF THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES TO INCREASE THE AMOUNT OF THE CHANGE FUND FOR THE OFFICE OF THE TAX COLLECTOR

WHEREAS, N.J.S.A. 40A:5-21 authorizes the establishment of a Change Fund in any county of municipality by application and resolution, and

WHEREAS, it is the desire of the Township of Irvington in the County of Essex, to increase the change fund for the Office of the Tax Collector from \$200.00 to \$350.00; and

WHEREAS, the custodian for this fund is Beverly Baytops, C.T.C., Tax Collector of the Township of Irvington, who is bonded by virtue of a surety bond, and is required to maintain records for this fund in a manner conducive to proper accounting and auditing procedures.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON, COUNTY OF ESSEX, NEW JERSEY hereby authorizes such action and two copies of this resolution be filed with the Division of Local Government Services, New Jersey Department of Community Affairs for approval.

Adopted

Absent: Burgess, Hudley

Jones – Cox 6. Authorize Submission of the Fiscal Year 2017-2018 CPMP Third Program Annual Action Plan to U.S. Department of Housing and Urban Development

AUTHORIZE THE SUBMISSION OF THE FISCAL YEAR 2017-2018 CPMP THIRD ANNUAL ACTION PLAN OF THE TOWNSHIP OF IRVINGTON PURSUANT TO THE REQUIREMENTS OF FEDERAL REGULATION 24 CFR PART 91 AND PART 92.

WHEREAS, Title I of the Housing and Community Development Act of 1974 as amended provides for a program of Community Development Block Grants AND title II of the Cranston-Gonzalez National Affordable Housing Act, as amended provides for a program of HOME Investment Partnerships; and

WHEREAS, the Township of Irvington is an entitlement and formula city as defined under said Acts, and is entitled to financial assistance; and

WHEREAS, the Township of Irvington anticipates that the United State Department of Housing and Urban Development will make available to the Township of Irvington the minimum sum of \$955,920.00 under the Fiscal Year 2017-2018 Community Development Block Grant Program and \$313,619.00 under the HOME Investment Partnerships Program; and

WHEREAS, the Township understands that the stated amount may decrease or increase when

HUD officially makes its allocations of the subject funds for Fiscal Year 2017-2018; and

WHEREAS, the Township of Irvington desires to receive said funds to conduct housing rehabilitation, economic development, physical improvements, slum clearance, and public service activities in the Township of Irvington; and

WHEREAS, federal regulations at 24 CF Part 91 and Part 92 require that the Township of Irvington prepare and submit a CPMP Third Program Year Action Plan as a prerequisite to receipt of entitlement Community Development Block Grant funds and formula HOME Investment Partnerships Program funds; and

WHEREAS, the Township of Irvington, pursuant to the requirements of federal regulation 24 CFR Part 91 and Part 92, has given citizens an opportunity to express their opinions regarding the Township of Irvington, and has held public meetings hearings, which were open to the public; and

WHEREAS, said public meetings and hearings were for the purpose of considering and obtaining the views of the citizens of the Township of Irvington on community development and housing needs, and for the purpose of providing the citizens with an opportunity to participate in the development of the CPMP Third Program Year Action Plan; and

WHEREAS, said CPMP Third Program Year Action Plan for federal assistance requires certain certifications to be submitted along with and as part of said plans:

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON, ESSEX COUNTY, NEW JERSEY:

SECTION 1

That the Mayor be and he is authorized and directed to submit the Township of Irvington CPMP Third Program Year Action Plan to the U.S. Department of Housing and Urban Development as required by federal regulation 24 CFR Part 91 and Part 92, including all understandings and certifications contained therein, to act as the authorized representative of the Township of Irvington and to provide such additional information as may be required.

SECTION 2

That the Township of Irvington CPMP Third Program Year Action Plan shall request funding to the fullest extent of funding allowed and determined by the United States Department of Housing and Urban Development Act of 1974, as amended and Title II of the Cranston-Gonzales National Affordable Housing Act, as amended.

SECTION 3

That the Mayor and other authorized, appropriate and responsible officials be and they are hereby authorized and directed to duly consider the comments and recommendations received as part of the citizen participation process and to incorporate those comments and recommendations in the plan to the extent feasible and to provide a full and written response to all comments and recommendations as part of the final CPMP Third Program Year Action Plan submission.

SECTION 4

That the Mayor and other authorized, appropriate and responsible officials be and they are hereby authorized and directed to execute on behalf of the Township of Irvington such certifications and other documentation as may be required by the U.S. Department of Housing and Urban Development.

Adopted

Absent: Burgess, Hudley

Jones – Frederic 7. Authorize Submission of the Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection

IRVINGTON TONNAGE GRANT APPLICATION RESOLUTION

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L.1987, c.102, has established a recycling fund from which tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to Implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for the 2016 Recycling Tonnage Grant will memorialize the commitment of this municipality to recycling and to indicate the assent of Irvington Municipal Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW THEREFORE BE IT RESOLVED by the Irvington Municipal Council of the Township of Irvington that the Township of Irvington hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates the Irvington Recycling Coordinator to ensure that the application is properly filed;
And

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

Adopted

Absent: Burgess, Hudley

Frederic – Jones 8. Commendation – Dr. Louis V. Sangosse, M.D. in Commemoration of Haitian Flag Day, 2017

**DR. LOUIS V. SANGOSSE, MD
RESOLUTION OF COMMENDATION
IN COMMEMORATION OF HAITIAN FLAG DAY, 2017**

WHEREAS, HAITI's history dates back to thousands of years. For a country's citizens, the national flag is indisputably a symbol of general pride. They would consider any offense to their flag to be an offense to their country. Beyond being an icon though, a flag's origin can often say a lot about a nation's social makeup or history. Haitians feel no different and even reserve a special day to honor it, that day is May 18, 1803; and

WHEREAS, in commemoration of Haitian Flag Day 2017, the Irvington Municipal Council would like to honor, Dr. Louis Sangosse, MD, who has provided a vast array of accomplishments and public service in the medical field for many years;

WHEREAS, Dr. Sangosse graduated from the Faculty of Medicine of the State University of Haiti in 1976. After one year of rural residency at Saint-Marc, he completed two and half years of residency in Internal Medicine at the University Hospital in Port-au-Prince; and

WHEREAS, he immigrated to the United States of America in 1980, where he trained in Internal Medicine. He did one year at Englewood Hospital, New Jersey, three more years at Saint-Barnabas Hospital-Cornell Affiliated, Bronx, New York, completed his residency in Internal Medicine in 1985 and was Chief Medical Resident during the last year; and

WHEREAS, in July 1985, Dr. Sangosse started a fellowship in Critical Care Medicine at Montefiore Medical Center, Bronx. After completion of his fellowship he was offered a position as full time Critical Care Attending at the same institution; and

WHEREAS, in 1991 Dr. Sangosse left Montefiore Medical Center to pursue a specialty in Pulmonary Medicine at St.Lukes-Roosevelt in Manhattan; and

WHEREAS, he is a Diplomate of the American Board of Internal Medicine/Pulmonary and Critical Care medicine and Diplomate of the American Board of Holistic Integrative Medicine; and

WHEREAS, Dr. Sangosse has been in private practice in New Jersey since 1993. His current office location is 81 Northfield Avenue, Suite 204, West Orange, NJ; and

WHEREAS, he was the President of the New Jersey Chapter of the Haitian Physicians Abroad from 2000 to 2004. Under his leadership, the Chapter became much more involved in the Haitian Community. He was part of the team that organized the First Medical Convention in Haiti, in 1997. Dr. Sangosse was responsible for the Health Fair Program in New Jersey and the La Saline Program in Haiti; and

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that it hereby applauds the many achievements of Dr. Louis V. Sangosse, MD and celebrates Haitian Flag Day on May 13, 2017 to honor this country's citizens and their ancestors who so bravely fought for their freedom from slavery; and

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of this Governing Body in lasting tribute to Dr. Louis V. Sangosse, MD.

Adopted

Absent: Burgess, Hudley

A. Communications

1. League of Municipalities – Legislative Bulletin #2

11. Pending Business

None

12. Miscellaneous

A. Bingos and Raffles

Jones – Lyons

1. Sacred Heart of Jesus Church

Adopted

Absent: Burgess, Hudley

NON-CONSENT AGENDA ITEMS

8. Ordinances, Bills & Claims

A. Ordinances on 1st Reading

1. Amend and Supplement Section 82-6 of Revised Code – Building Construction Permits

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 82 SECTION 82-6

Adopted

Absent: Burgess, Hudley

B. Ordinances on 2nd Reading

1. President Lyons: An ordinance regulating abandoned and unregistered motor vehicles will be heard at this time. The Clerk will read the notice of hearing.

The Clerk read the notice of hearing.

The Clerk will read the ordinance by title.

AN ORDINANCE REGULATING ABANDONED, INOPERABLE AND UNREGISTERED VEHICLES

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON as follows:

§192-85.1 AMENDMENT TO ABANDONED, INOPERABLE AND UNREGISTERED VEHICLES

- Definitions.

For the purpose of this chapter, the following words shall have the meanings ascribed to them as follows:

"Abandoned vehicle" means any vehicle that has not been moved for seven (7) consecutive days or more and is apparently deserted.

"Antique vehicle" means any vehicle twenty-five (25) years of age or older.

"Highway" means any street, alley or public way within the Township.

"Inoperable vehicle" means any vehicle from which, for a period of at least seven (7) days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power, or, if not equipped with an engine when manufactured, incapable of being moved.

"Person" means any natural person, firm, partnership, association, corporation or other legal entity.

"Private property" means any real property within the Township, which is privately owned and which is not public property as defined in this section.

"Public property" means any street or highway which shall include the entire width between the boundary lines publicly maintained for the purposes of vehicular travel, and any other property or facility owned by a public entity.

"Township" means the Township of Irvington.

"Trailer" means every vehicle without motive power in operation designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle. However, a trailer commonly referred to as a "fifth wheel" trailer is considered a trailer by this definition.

"Travel trailer" means a trailer, not used commercially, designed to provide living quarters for recreational, camping, or travel use, and of a size or weight not requiring an over dimension permit when towed on a highway or Township street.

"Unregistered vehicle" means any vehicle, which is not properly and currently registered with the State of New Jersey Motor Vehicle Commission.

"Vehicle" means every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway or Township street or requiring a certificate of title under the statutes of the State of New Jersey except devices moved by human power, devices used exclusively upon stationary rails or trane and snowmobiles as defined in the Snowmobile Registration and Safety Act.

"Vehicle owner" means a person who holds legal title to a vehicle or, in the event a vehicle is the subject of an agreement for conditional sale or lease thereof with the right of purchase upon the performance of the conditions stated in the agreement and with the immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of such vehicle is entitled to possession, then such conditional vendee, lessee or mortgagor shall be deemed the owner for the purposes of this chapter.

§192-85.2- Declaration of nuisance.

The Administration may find and declare that abandoned vehicles, inoperable vehicles and unregistered vehicles, whether located upon private property or upon public property, constitute a safety hazard and a public nuisance detrimental to the health, safety and welfare of the general public, by harboring disease, providing breeding places for vermin, inviting plundering, creating fire hazards and presenting physical dangers to children and others, and by creating scenic blights which degrade the environment and adversely affect land values and the proper maintenance and continuing development of the township.

§192-85.3- Exemptions.

This chapter shall not apply to the following:

- A. A vehicle which is kept within an enclosed building when not in use;
- B. An operable antique vehicle properly and currently registered with the office of the New Jersey Secretary of State.
- C. A vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles, or on the premises of a place of business engaged in the sale of new or used automobiles, provided, however, that the later business does not store or display inoperable vehicles.
- D. A vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations for a period of not more than seven (7) days from the date the vehicle became inoperable.

§192-85.4 - Storage of unregistered vehicles.

No person shall accumulate, store or allow any unregistered vehicle to be located upon any public property or private property within the Township for a period exceeding seven days.

- A. It shall be unlawful for any person to abandon a motor vehicle, omnibus, road tractor, trailer, truck, truck tractor, boat, motor home or other commercial vehicle on any vacant lot, unoccupied building, public street or highway; on any municipally owned or operated parking lot; on any property which is owned, leased or maintained by the town; on any property which is owned, leased or maintained by the Board of Education; or on any property which is owned, leased or maintained by the Library Board of Trustees or on any property which is owned, leased or maintained by the Irvington Housing Authority.
- B. Whenever any member of the Police Department finds or is notified of any motor vehicle,
- C. omnibus, road tractor, trailer, truck, truck tractor, boat, motor home or other commercial vehicle abandoned on any vacant lot, unoccupied building, public street or highway of the town or on any public property described in this article, such member shall issue a motor vehicle summons move or secure its removal to such garage or place as may be designated by the Director of Public Safety and/or his designee as a garage or place for the impounding of such vehicles, and such vehicle shall be retained and impounded until

the person owning the same shall first pay the reasonable costs of the removal and storage which may result from such removal before regaining possession of the vehicle.

§192-85.5- Covering or storing vehicles.

Covering, tarping, or storing an abandoned, inoperable or unregistered vehicle in an unenclosed building or structure will not be considered to resolve an abandoned, inoperable or unregistered vehicle as a public nuisance. Any abandoned, inoperable or unregistered vehicle belonging to an individual who is in the process of selling the vehicle, will have thirty (30) days from the date of receiving a notice from the Township.

§192-85.6- Duty to dispose of abandoned, inoperable or unregistered vehicles.

Any person, not exempted under §192-85.3, shall dispose of any abandoned, inoperable or unregistered vehicle owned by him or her, and, if the vehicle is located upon private property, the owner or person occupying the private property shall dispose of the abandoned, inoperable or unregistered vehicle as set forth in this chapter, upon written notice received from the Township commanding the disposition thereof.

§192-85.7- Notice.

- A. If the abandoned, inoperable or unregistered vehicle displays registration plates or decals from which the last known vehicle owner may be determined in a reasonably expeditious manner, notice as set forth in this chapter shall be sent to the last registered vehicle owner, and, if the vehicle is located upon private property, to the owner or occupant of the private property upon which the vehicle is located.
- B. All notices provided by this section shall be sent by registered or certified mail, return receipt requested, postage prepaid. Notice to one vehicle owner will be considered notice to all vehicle owners and notice to one owner or occupant of private property will be considered notice to all owners and/or occupants of private property upon which the vehicle is located. Refusal to accept delivery of the notice shall be deemed acceptance for purposes of this section. The date of notice for purposes of this section shall be the day after the date such notice was deposited with the United States postal service. Notice may be personally served by a Township police officer or other law enforcement agent authorized by the Business Administrator upon the vehicle owner, or, if the vehicle is located upon private property, upon an owner or an occupant of the private property above the age of fourteen (14) years, in which case the date of notice shall be the date of personal service.
- C. If the vehicle is located upon public property the notice will be substantially in the form set forth in this subsection:

**NOTICE TO REMOVE VEHICLE FROM
PUBLIC PROPERTY**

	TO: Name _____	Date _____
	Address _____ _____	
	A Vehicle described as	
	Make: _____	
	Year: _____	
	Color: _____	
<p>with registration plates number _____ (the Vehicle) is registered in the name(s) of _____ with the State of _____. The Vehicle is located at _____ outside of an enclosed building and is deemed to be an Abandoned, Inoperable or Unregistered Vehicle under § 192-85.1, et. seq. of the Township of Irvington Municipal Code of Ordinances (the Ordinance). You are hereby notified that</p>		

the Vehicle must be removed, disposed of or placed in an enclosed building within seven (7) days of the day after the date this Notice was deposited with the United States Postal Service. If you fail to remove, dispose of, or place the Vehicle in an enclosed building within the specified period, or within any extension granted by the Township Attorney, the Township may cause the towing or removal of the Vehicle without further notice to you, and you may be charged with a violation of the Ordinance and may be subject to penalties pursuant to § 192-85.1 of the Township of Irvington Municipal Code of Ordinances. In addition, the costs of towing and storage, including court costs and reasonable attorneys fees may be assessed against you.

- D. If the vehicle is located upon private property, the notice shall be substantially in the form set forth in this subsection:

**NOTICE TO REMOVE VEHICLE FROM
PRIVATE PROPERTY**

TO:	Name _____	Date _____
	Address _____ _____	
	A Vehicle described as	
	Make: _____	
	Year: _____	
	Color: _____	

with registration plates number _____ (the Vehicle) is registered in the name(s) of _____ with the State of _____. The Vehicle is located at _____ outside of an enclosed building and is deemed to be an Abandoned, Inoperable or Unregistered Vehicle under §§192-85.1, et. seq. of the Township of Irvington Municipal Code of Ordinances (the Ordinance). You are hereby notified that the Vehicle must be removed, disposed of or placed in an enclosed building within seven (7) days of the day after the date this Notice was deposited with the United States Postal Service. You may request a hearing on the matter of whether the above described vehicle is an Abandoned, Inoperable or Unregistered Vehicle in violation of § 192-85 et. seq. of the Ordinance by submitting a written request for such a hearing to the Township Attorney addressed as set forth below, within seven (7) days of the day after the date this Notice was deposited with the United States Postal Service. If you submit such a request for a hearing, a hearing date will be set and you will be advised of the time, date and place of such hearing at least three (3) days in advance of the date of such hearing. The Township Attorney shall, upon good cause being shown, grant an extension of the hearing of not more than thirty (30) days if you submit to the Township Attorney an affidavit that the Vehicle is being held for sale or for expeditious repair as defined by § 192-85.1 of the Ordinance. To request a hearing, you must hand deliver or mail by certified mail, return receipt requested, a request for such a hearing in writing to the Township Attorney c/o, Township of Irvington, 1 Civic Square, Irvington, NJ 07111. If you fail to request a hearing within seven (7) days of the day after the date this Notice was deposited with the United States Postal Service, and you do not remove, dispose of, or place the Vehicle in an enclosed building within the specified period, or within any

extension granted by the Township Attorney after a hearing. , and you may be charged with a violation of the Ordinance and may be subject to penalties pursuant to the Township of Irvington Municipal Code of Ordinances. In addition, the costs of towing and storage, including court costs and reasonable attorney's fees may be assessed against you.

§192-85.8 - Hearing regarding vehicle located upon private property.

- A. The person or persons to whom the notice as specified in Section §192-85.6 (D) is directed, shall have the right to a hearing before the Township Attorney on the matter of whether the vehicle cited in such notice is an abandoned, inoperable or unregistered vehicle in violation of this chapter. To obtain such a hearing, a written request for such a hearing must be submitted by hand delivery or by certified mail, return receipt requested, addressed to the Township Attorney c/o, Township of Irvington, 1 Civic Square Irvington, New Jersey 07111 within seven (7) days of the day after the date this notice was deposited with the United States postal service. In the event that a hearing is so requested, the Township Attorney shall, as soon as reasonably practicable, set a time, date and place for the hearing before the Township Attorney, and shall cause the person or persons so requesting the hearing to be provided with written notice of the time, date and place of the hearing at least three days in advance of the date of the hearing. Enforcement of this chapter shall be stayed pending the hearing and determination by the Township Attorney.
- B. The owner of the vehicle or, the owner or occupant of the private property upon which the vehicle is located, may apply for an extension of time of the hearing by submitting to the Township Attorney an affidavit that the vehicle is being held for sale or expeditious repair. Upon receipt of any such application for an extension of time, the Township Attorney shall, upon good cause being shown, grant an extension of the hearing of not more than thirty (30) days. As used in this section, "expeditious repair" means:
 - 1. That the necessary parts for repair have been ordered but are not available for installation in the vehicle for reasons not within the control of the owner of the vehicle;
 - 2. That the vehicle is scheduled to be repaired by a person whose regular course of business includes the repair of vehicles and the scheduled repair date is within thirty (30) days; or
 - 3. That the vehicle is in such condition of being inoperable as a result of a vehicular accident, and the owner of the vehicle or any third party to whom, or from whom, a claim for the damages sustained in such accident is anticipated, is investigating or preparing a claim for such damages.

§192-85.9- Towing.

- A. Public Property. In the event the notice provided for in Section §192-85.6 (C) is not complied with, the township, may cause the towing or removal of the abandoned, inoperable or unregistered vehicle from public property without further notice to the vehicle owner.
- B. Private Property. In the event the notice provided for in Section §192-85.6 (D) is not complied with, the Township, except as provided in subsection (B)(1) of this section a hearing maybe requested before the Township Attorney
 - 1. In the event a request for a hearing before the Township Attorney is made as set forth in Section §192-85.7, and the Township Attorney determines the vehicle is an abandoned, inoperable or unregistered vehicle, the Township Attorney shall set a reasonable date by which the vehicle shall be disposed of or enclosed within a building. The date shall be no less than seven days after the date of the hearing.
- C. It shall be the responsibility of the vehicle owner or, the owner of the private property upon which the vehicle is located, if applicable, to deliver a written notice to the Township Attorney and to provide documentation and/or demonstration of operability of the vehicle, and that the

vehicle has been properly registered, if the vehicle has been put into operable condition and/or registered with the State of New Jersey Motor Vehicle Commission following issuance of the notice described in Section §192-85.6 hereof. In the event no such written notice and evidence of compliance herewith is received by the business administrator, it shall be presumed that the vehicle remains abandoned, inoperable or unregistered and the Township may immediately cause the towing or removal of the vehicle from public property.

- D. Whenever a vehicle is towed or removed by a towing service pursuant to the provisions of this chapter, the owner of the vehicle and the owner or occupant of the property upon which the abandoned, inoperable or unregistered vehicle is located, if applicable, shall be jointly and severally responsible for all towing and storage charges.
- E. Within forty-eight (48) hours of the removal of the vehicle, the Township will send notice to the vehicle owner and any lien holder, if known, and to the owner or occupant of the private property from which the vehicle was removed, if applicable, that the vehicle has been impounded and stored for violation of this chapter. The notice shall give the location of the vehicle and the costs, if any, incurred by the Township for removal.
- F. Any vehicle towed or removed pursuant to the provisions of this chapter will be stored and claimed or disposed of in accordance with the applicable provisions of the New Jersey Vehicle Code, as amended, entitled "Abandoned, Lost, Stolen or Unclaimed Vehicles which is incorporated in this chapter by reference.

§192-85.10- Record of vehicles towed.

When a vehicle is authorized to be towed, the Township shall keep and maintain a record of the vehicle listing the color, year of manufacture, manufacturer's name, manufacturer's series name, body style, vehicle identification number and license plate year and number, if any, displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the Township official authorizing the tow.

§192-85.11- Cumulative remedies.

The provisions and remedies of this chapter shall be in addition to any other provisions and remedies provided by this code or the New Jersey compiled statutes.

§192-85.12 - Separability of provisions.

Each section, paragraph, sentence, clause and provision of this chapter is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this chapter nor any part of this chapter, other than that part affected by such decision.

§192-85.13- Penalty.

Any person violating any of the provisions of this chapter will be subject to penalties pursuant to **Section 98-28 Fees under Chapter 187**, Towing effective date October 5, 2015 of this code. If the Township incurs expense, including reasonable attorneys' fees, in enforcing this chapter, the vehicle owner and the owner or occupant of private property notified as set forth in §192-85.6 will be jointly and severally responsible for the expense.

Each day that any person or corporation shall continue to keep, maintain, park, store, place or abandon such vehicle, machinery or mechanical equipment, upon such premises after the time contained in the aforesaid notice shall expire shall be deemed to be a separate offense and violation of this ordinance.

Any person who violates the provisions of this ordinance shall, upon conviction thereof, be subject to the following: a fine not exceeding \$100.00 a day but with a total fine not exceed a maximum of \$1,000.00 for such vehicle, machinery or mechanical equipment is not removed after aforesaid notice expired in addition to the cost of the tow/removal of the vehicle, machinery or mechanical equipment and any additional fees the Township incurred due to the removal/tow of the vehicle, machinery or mechanical equipment.

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed.

This ordinance shall take effect upon final passage and publication according to law.

The public hearing on this ordinance is now open.

There were no requests to be heard.

Cox – Frederic

Motion to close public hearing

Adopted

Absent: Burgess, Hudley

Cox- Frederic

Motion to adopt this ordinance on second reading after public hearing.

Adopted

Absent: Burgess, Hudley

2. President Lyons: An ordinance regulating certain loud and unnecessary noises will be heard at this time. For the record, this notice is identical to the first notice of hearing that was read.

The Clerk will read the ordinance by title.

AN ORDINANCE AMENDING CHAPTER 139-23-LOUD AND UNNECESSARY NOISES PROHIBITED.

AN ORDINANCE AMENDING CHAPTER 139-23 “LOUD AND UNNECESSARY NOISES PROHIBITED” of the Township of Irvington;

BE IT ORDAINED by the Municipal Council of the Township of Irvington as follows:
Chapter 139-23 is hereby amended to read as follows:

1. It shall be unlawful for any person to make, continue or cause to be made or continued directly or indirectly including on any private property within the Township; any loud, unnecessary or unusual noise, or any noise which does or is likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others within the town.
2. The owner and/or occupier of private property in violation of this ordinance shall be responsible for any fines and/or penalties attendant hereto.

All ordinances and provisions thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

If any article, section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision of invalidity shall not affect the remaining portions of provisions of this Ordinance.

The public hearing on this ordinance is now open.

Richard Williams, 197 Linden Avenue

Lyons – Cox

Motion to close public hearing.

Lyons – Cox

Motion to adopt this ordinance on second reading after public hearing.

Adopted

Absent: Burgess, Hudley

3. President Lyons: An ordinance providing for commercial curb loading zones will be heard at this time. For the record, this notice is identical to the first notice of hearing that was read.

The Clerk will read the ordinance by title.

AN ORDINANCE PROVIDING FOR PROCEDURES TO ESTABLISH
COMMERCIAL LOADING ZONE

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF
IRVINGTON AS FOLLOWS:

Loading Zone Ordinance

a. The Township Engineer may recommend to the municipal council a curb **loading zone** upon the special request of any person/business when, on the basis of a site inspection conducted by the Township Engineer, it is determined that such curb **loading zone** is necessary and justified by traffic conditions at the proposed location. The days and hours of curb **loading zone** will be recommended to the municipal council by the Township Engineer based on the needs of the applicant and the current parking restrictions.

b. Any person/business shall be eligible to apply for a curb **loading zone** on an application provided by the Township Engineer. The following information shall be printed on the application and supplied by the applicant to the Township: Applicant Name, Company/Business Name, Address, Telephone Number, indicate access to driveway, loading dock, garage or parking lot; indicate type of vehicles making deliveries, indicate days and hours of deliveries, and a signed and dated declaration by the applicant that he/she has not willingly or knowingly made a false statement or given information which they know to be false.

c. Any person/business who requests a curb **loading zone** not in a metered parking area shall make written application to the Township Engineer. The Township Engineer shall make a recommendation to the municipal council and the municipal council shall approve the application by a majority vote. After approval of such application by the municipal council and a payment of one hundred fifty (\$150.00) dollars check or money order for each twenty (20) feet of curb parking space or fraction thereof to the Township, a permit for such curb **loading zone** may be issued subject to the provisions of paragraph a, above. The permit shall contain such conditions as the Township Engineer may prescribe, and shall be valid for one (1) year. The permit shall not be transferable but may be reissued annually upon payment of a renewal fee of one hundred fifty (\$150.00) dollars check or money order for each twenty (20) feet of curb parking space or fraction thereof.

d. Any person/business who requests a curb **loading zone** in parking metered area shall make written application to the Township Engineer. After approval of such application by the municipal council and a payment of four hundred (\$400.00) dollar check or money order for each metered parking space or fraction thereof included in the curb **loading zone**, a permit for such curb **loading zone** may be issued subject to the provisions of paragraph a, above. The permit shall contain such conditions as the Township Engineer may prescribe, and shall be valid for one (1) year. The permit shall not be transferable but may be reissued annually upon payment of a renewal fee of four hundred (\$400.00) dollar check or money order for each metered parking space or fraction thereof.

e. Any person/business who requests a curb **loading zone** which is not in a metered parking area and is located in the Irvington Center area bounded on Springfield Avenue, shall make written application to the Township Engineer. After approval of such application by the municipal council and a payment of two hundred fifty (\$250.00) dollar check or money order to the Township for each twenty (20) feet of curb parking space or fraction thereof, a permit for such curb **loading zone** may be issued subject to the provisions of paragraph a. above. The permit shall contain such conditions as the Township Engineer may prescribe, and shall be valid for one (1) year. The permit shall not be transferable but may be reissued annually upon payment of a renewal fee of two hundred fifty (\$250.00) dollar check or money order for each twenty (20) feet of curb parking space or fraction thereof.

f. Any person/business who requests a curb **loading zone** in a parking metered area and located in the Irvington Center area on Springfield Avenue shall make written application to the Township Engineer. After approval of such application by the municipal council and a payment of six hundred (\$600.00) dollar check or money order to the Township for each metered parking space or fraction thereof included in the curb loading, a permit for such curb **loading zone** may be issued subject to the provisions of paragraph a. above. The permit shall contain such conditions as the Township Engineer may prescribe, and shall be valid for one (1) year. The permit shall not be transferable but may be reissued annually upon payment of a renewal fee of six hundred (\$600.00) dollars check or money order for each metered parking space or fraction thereof.

g. Vehicles loading, unloading, delivering or picking up freight or materials shall be permitted to park in loading zones not to exceed one (1) hour, and vehicles shall not be left unattended.

h. With the consent of council the Township Engineer may terminate any curb **loading zone** permit and remove the signs erected if payment of the annual fee shall be thirty (30) days in arrears, or whenever public convenience or necessity warrants such action; provided that thirty (30) days' notice for such intended action shall be given to the person/business to whom the permit has been issued.

i. No fee shall be required for the designation of a curb **loading zone** at any government building, school or hospital.

j. The approval of the loading zone is contingent upon planning/zoning board approval of the project.

WHEREAS, the Redevelopment Area is subject to the *Scattered Sites, Summer 2006 Program, Areas in Need of Redevelopment, Redevelopment Plan* (as subsequently amended, the “**Redevelopment Plan**”), which was duly adopted by the Township Council pursuant to the Redevelopment Law and in accordance with the procedures set forth therein; and

WHEREAS, the Entity proposes to develop an adult day care facility (the “**Project**”) on the Property; and

WHEREAS, the Project shall conform to the Redevelopment Plan and will be in conformance with the master plan of the Township; and

WHEREAS, the Entity has represented to the Township that the Project would not be feasible in its intended scope but for the provision of financial assistance by the Township; and

WHEREAS, in order to enhance the economic viability of and opportunity for a successful project, the Entity has submitted an application to the Township requesting a long term tax exemption (the “**Exemption Application**”) and a form of financial agreement (the “**Financial Agreement**”), all in accordance with the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.* (the “**Exemption Law**”), specifically *N.J.S.A. 40A:20-8*; and

WHEREAS, after review of the Exemption Application, the Mayor recommended that the Exemption Application be approved (the “**Mayor’s Recommendation**”); and

WHEREAS, upon review of the proposed Project, the Exemption Application and the Mayor’s Recommendation, the Township has made the following findings with respect to the Project pursuant to *N.J.S.A. 40A:20-11*:

1. The Property has suffered serious water damage and is currently vacant, thereby creating a risk that the Property could ultimately become an unsafe and hazardous structure and/or an attractive nuisance for crime in the area;
2. Given the costs of the Project, the investment risk makes the financing of the Project infeasible in the absence of a tax exemption provided by the Township;
3. The construction of the Project will result in the rehabilitation of the Property, substantial improvements to the infrastructure on the site, as well as community benefits in the form of both temporary construction jobs, permanent full-time jobs, social services, ratables and recreational space;
4. The Project is consistent with the Redevelopment Plan, will further its objectives and will contribute to the economic growth of the Township; and

5. The Financial Agreement was a material inducement to the Entity to undertake the Project in the Township and facilitate the rehabilitation of the Property and upon expiration of the exemption, the Project shall be fully assessed and conventionally taxed; and

WHEREAS, after review of the Exemption Application, the Township Council desires to approve the Exemption Application and to authorize the execution of the Financial Agreement in substantially in the form attached hereto as **Exhibit A**,

NOW, THEREFORE BE IT ORDAINED by the Municipal Council of the Township of Irvington that:

Section 1. The forgoing recitals are incorporated herein as if set forth in full.

Section 2. An exemption from taxation as set forth in the Exemption Application is hereby approved and granted to the Entity, with respect to the Project in the Redevelopment Area in accordance with the term set forth in the Financial Agreement; provided that in no event shall the term of the Financial Agreement exceed the earlier of (i) thirty-five (35) years from the date of execution of the Financial Agreement or (ii) to the extent permitted by the Exemption Law, thirty (30) years from the Entity's receipt of a Certificate of Occupancy (as defined in the Financial Agreement) for the Project and only so long as the Entity remains subject to and in compliance with the Financial Agreement and the Exemption Law.

Section 3. The form of Financial Agreement submitted by the Entity, attached hereto as **Exhibit A** and made a part hereof, is hereby approved in accordance with Section 8 of the Exemption Law.

Section 4. The Mayor, in consultation with counsel to the Township, is hereby authorized to execute the Financial Agreement and prepare, amend or execute any other agreements necessary to effectuate this ordinance, subject to modification or revisions, as deemed necessary and appropriate.

Section 5. The Clerk of the Township is hereby authorized and directed, upon execution of the Financial Agreement by the Mayor, to attest to the signature of the Mayor upon such document and is hereby further authorized and directed to affix the corporate seal of the Township upon such document.

Section 6. The executed copy of the Financial Agreement shall be certified by and filed with the Office of the Township Clerk. Further, the Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Township and the Director of the Division of Local Government Services with the Department of Community Affairs, in accordance with Section 12 of the Exemption Law.

Section 7. In accordance with P.L. 2015, c. 247, within ten (10) calendar days following the later of the effective date of this Ordinance or the execution of the Financial Agreement by the Entity, the Township Clerk shall transmit a certified copy of

this Ordinance and the Financial Agreement to the chief financial officer of Essex County and to the Essex County Counsel for informational purposes.

Section 7. The Project shall conform with all federal, state and Township laws, ordinances and regulations relating to its construction and use.

Section 8. The Entity shall, in the operation of the Project, comply with all laws so that no person of race, religious principles, color, national origin or ancestry will be subject to discrimination.

Section 9. A copy of this ordinance shall be available for public inspection at the offices of the Township.

Section 10. This ordinance shall take effect in accordance with all applicable laws.

EXHIBIT A

FINANCIAL AGREEMENT

THIS FINANCIAL AGREEMENT (hereinafter "**Agreement**" or "**Financial Agreement**"), is made as of the ____ day of February, 2016, by and between PBR URBAN RENEWAL, LLC, a New Jersey limited liability company qualified to do business as an urban renewal entity under the provisions of the *Long Term Tax Exemption Law*, N.J.S.A. 40A:20-1 *et seq.*, as same may be amended and supplemented, (the "**Exemption Law**") with offices at 15 Sherman Blvd., Edison, New Jersey 08820 (hereinafter the "**Entity**") and the Township of Irvington, a municipal corporation in the County of Essex and the State of New Jersey, with offices located at 1 Civic Square, Irvington, New Jersey 07111 (hereinafter the "**Township**"; and together with the Entity, the "**Parties**" or, separately, each a "**Party**").

WITNESSETH:

WHEREAS, the Entity is the owner of certain property designated as Tax Block 220, Lot 15.01 on the tax map of the Township of Irvington, New Jersey, more commonly known by the street addresses of 60-72 Howard Street, Irvington, New Jersey 07111 (the "**Property**"); and

WHEREAS, the Entity proposes to develop an Adult Day Care facility (the "**Project**") on the Property; and

WHEREAS, the Entity is a single purpose urban renewal entity created pursuant to the Exemption Law for the development, operation and maintenance of the Project; and

WHEREAS, in order to improve the feasibility of the Project, the Entity submitted an application (the "**Application**"), requesting a long term tax exemption and

a financial agreement (the "**Financial Agreement**") with respect to the Property pursuant to the Exemption Law, which Application is on file with the Municipal Clerk; and

WHEREAS, the Township determined that the assistance provided to the Project pursuant to this Agreement will be a significant inducement for the Entity to proceed with the Project and that based on information set forth in the Application, the Project would not be feasible without such assistance; and

WHEREAS, by the adoption of Ordinance _____ on _____, a copy of which is attached hereto as Exhibit B, the Municipal Council approved the tax exemption application and authorized the execution of this Agreement, and the parties hereto desire to set forth in detail their mutual rights and obligations with respect to the tax exemption applicable to this Project; and

WHEREAS, the Township and the Entity enter into this Financial Agreement to memorialize the terms and conditions by which the Entity will pay an Annual Service Charge in lieu of real property taxes on the Project's Improvements.

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:

GENERAL PROVISIONS

SECTION 1.01 Governing Law. This Agreement shall be governed by and construed by the laws of the State (as defined herein), including (a) the Long Term Tax Exemption Law, the Local Redevelopment and Housing Law and such other State statutes as may be sources of relevant authority, (b) the Ordinance, and (c) all other Applicable Laws, without regard to conflict of law principles.

SECTION 1.02 General Definitions.

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

Application Fee – The fee paid to the Township by the Entity for , as set forth in Section 4.03 of the Agreement.

Agreement or Financial Agreement – shall have the meaning given to it in the preamble of this Agreement.

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 Township 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 Service Charge - the amount the Entity has agreed to pay the Township pursuant to Article IV hereof for municipal services supplied to the Project, which sum is in lieu of any real estate taxes on the Improvements, all as contemplated pursuant to the Exemption Law, which amount, if applicable, 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 Commencement Date – the date of the Substantial Completion of the Project.

Applicable Law – All Federal, State and local laws, ordinances, approvals, rules, regulations and requirements applicable thereto including, but not limited to, the Local Redevelopment and Housing 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 standards.

Application - the application filed by the Entity with the Township for a tax exemption for the Project, attached hereto as Exhibit A.

Auditor's Report - A complete financial statement outlining the financial status of the Project (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 – shall mean the document, whether temporary or permanent, issued by the Township authorizing occupancy of a building, in whole or in part, pursuant to *N.J.S.A. 52:27D-133*.

Council – shall mean the Municipal Council of the Township of Irvington.

County – shall mean the County of Essex, State of New Jersey.

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, beyond any applicable grace or cure periods set forth in this Agreement.

Default Notice - shall have the meaning given to it in Section 14.02 of this Agreement.

Disclosure Statement - shall have the meaning given to it in Section 7.02(c) of this Agreement.

Effective Date – the date upon which the last Party executes this Agreement.

Entity – shall mean the urban renewal entity specified in the preamble of this Agreement. Unless the context provides otherwise, it shall also include any transferee, as set forth in Section 8.01 of this Agreement.

Exemption Law - shall have the meaning given to it in the preamble of this Agreement.

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

Gross Revenue – the Annual Gross Revenue of the Entity as defined in *N.J.S.A. 40A:20-3(a)* and shall include the total of all revenues that would normally be payable to a landlord by a tenant in the case where the landlord is responsible to pay all costs of operations and maintenance as well as to pay the full cost of the capital required to construct the Project. To the extent that the actual revenues collected by the Entity are less than such amount, the Township shall have the right, at its sole discretion, to recalculate the amount that the revenues would have been and to utilize the results of the recalculations in all determinations of Annual Service Charges.

Improvements - any building, structure or fixture permanently affixed to the Land to be constructed and/or rehabilitated and tax exempted under this Agreement.

In Rem Tax Foreclosure - A summary proceeding by which the Township 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 underlying land, but not the Improvements, designated as Block 220, Lot 15.01 on the Township tax maps.

Land Taxes – the taxes assessed on the value of the Land, exclusive of the value of any Improvements related thereto, of the Property in accordance with generally applicable law.

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 – shall have the meaning given to it in Section 4.06 of this Agreement.

Mayor – the mayor of the Township

Minimum Annual Service Charge - the minimum annual service charge shall be the amount of the total taxes levied against the Project in the last full tax year immediately prior to the commencement of the annual service charges paid pursuant to this Financial Agreement. The Minimum Annual Service Charge shall be paid in each year in which the Annual Service Charge, calculated pursuant to *N.J.S.A. 40A:20-12(2)* and this Agreement, would be less than the Minimum Annual Service Charge.

Minimum Township Share – shall mean an amount equal to the Annual Service Charge for the first full year following the Annual Service Charge Commencement Date minus (i) the credit for the Entity's Land Taxes provided for in Section 4.05 and (ii) the portion of the Annual Service Charge remitted to the County in accordance with Section 4.04(g).

Minority – shall mean a person who is a citizen or lawful permanent resident of the United States and who is either one or a combination of: (i) African American (a person having origins in any of the black racial groups of Africa), (ii) Alaskan Native and/or American Indian (a person having origins in any of the original peoples of North America), (iii) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, Hawaii or the Pacific Islands), (iv) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race), or (v) Female (a person of the female gender).

Minority Business Enterprise – shall mean a sole proprietorship where the sole proprietor is a minority person; or a business corporation where fifty-one (51%) percent of the interest in such corporation is beneficially owned by minority persons and minority persons occupy the majority of management and board positions and control all decisions concerning the entity; or a partnership where fifty-one (51%) percent of the partnership interest in such partnership is beneficially owned by minority persons and minority persons occupy the majority of management and partnership positions and control all decisions concerning the entity; and which is certified as a bona fide minority business enterprise by a certifying agency designated by the Township.

Net Profit – The Annual Gross Revenue of the Entity pertaining to the Property, 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 14.04.

Ordinance – Ordinance No. [] adopted by the Council on [], attached hereto, adopting the subject tax exemption.

Party or Parties – shall have the meaning given to it in the preamble of this Agreement.

Project – shall have the meaning given to it in the recitals of this Agreement.

Property – shall have the meaning given to it in the recitals of this Agreement.

Small Business Enterprise – shall mean a business entity that is certified as a *bona fide* small business enterprise by a certifying agency designated by the Township.

State – The State of New Jersey

Substantial Completion - The determination by the Township that the Project is ready for the use intended, which ordinarily shall mean the date on which such Project receives, or is eligible to receive a Certificate of Occupancy for the Project.

Tax Assessor – The Township tax assessor.

Tax Collector – The Township tax collector.

Tax Sale Law – *N.J.S.A. 54:5-1 et seq.*

Taxes - shall have the meaning given to it in Section 14.04 of this Agreement.

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 Financial Agreement shall cause the Entity to relinquish or forfeit the tax exemption granted pursuant to this Agreement.

Total Project Cost - The aggregate of the costs of the Project as set forth in the categories defined in *N.J.S.A. 40A:20-3h*, as provided on Exhibit E to this Agreement.

Township – shall have the meaning given to it in the preamble of this Agreement.

Township Clerk - the municipal clerk of the Township

Township Share – shall mean an amount equal to the Annual Service Charge minus (i) the credit for the Entity's Land Taxes provided for in Section 4.04 and (ii) the portion of the Annual Service Charge remitted to the County in accordance with Section 4.04(g).

Women's Business Enterprise – shall mean a sole proprietorship where the sole proprietor is a woman; a business corporation where fifty-one (51%) percent of the interest in such corporation is beneficially owned by women and women occupy the majority of management and board positions and control all decisions concerning the entity; or a partnership where fifty-one (51%) percent of the partnership interest in such partnership is beneficially owned by women and women occupy the majority of management and partnership positions and control all decisions concerning the entity; and which is certified as a bona fide women's business enterprise by a certifying agency designated by the Township.

ARTICLE I

INTERPRETATION AND CONSTRUCTION

SECTION 1.03 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.

(h) All references to Sections, Articles or Exhibits shall, unless indicated otherwise, refer to the Sections, Articles or Exhibits in this Agreement.

(i) It is expressly understood and agreed that the Township expressly has relied upon the facts, data 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

Pursuant to the Ordinance, the Improvements to be constructed and maintained by the Entity on the Land designated on the Township tax maps as Block 220, Lot 15.01 shall be exempt from taxation as provided for herein and in the Long Term Tax Exemption Law. In accordance with N.J.S.A. 40A:20-12, the tax exemption shall constitute a single continuing exemption from local property taxation for the duration of this Agreement.

SECTION 2.02 Approval of the Entity

The Entity represents that its certificate of formation, attached hereto as Exhibit D, contains all the requisite provisions of law, has been reviewed and approved by the Commissioner of the New Jersey Department of Community Affairs, and has been filed with, as appropriate, 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 shall construct or cause to be constructed the Project in accordance with the Redevelopment Agreement and the approved site plan, the use of which Project is more specifically described in the Application.

SECTION 2.04 Construction Schedule

The Entity agrees to diligently undertake the commencement or cause the commencement of the construction and completion of the Project substantially in accordance with the Redevelopment Agreement.

SECTION 2.05 Ownership, Management and Control

The Entity represents that it owns the Property. The Entity covenants that it shall cause the redevelopment of the Property in conformance with the Redevelopment Agreement, the Redevelopment Plan and all Applicable Laws.

The Entity covenants, warrants and represents that the Property and the Project shall be used, managed and operated for the purposes set forth in the Application and the Redevelopment Agreement, and in accordance with the Redevelopment Plan and all Applicable Laws.

SECTION 2.06 Project Financing 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, amortization rate on Total Project Cost, the source of funds, the interest rates to be paid on construction financing, the source and amount of paid-in capital, the terms of any mortgage amortization, and rental schedules and lease terms, as applicable, in accordance with the Exemption Law.

SECTION 2.07 Findings

In accordance with the Exemption Law, the Township hereby finds and determines that this Agreement is to the direct benefit of the health, welfare and financial well-being of the Township and its citizens because it allows for the rehabilitation of the Property to continue its productive use, and further:

- (a) Relative Benefits of the Project: The Township recognizes the benefit created by the construction of the Improvements, the jobs to be created during the construction period and the permanent jobs to be created through the operation of the Improvements, as further set forth in the Application.
- (b) Assessment of the Importance of the Tax Exemption in Obtaining Development of the Project and Influencing the Locational Decisions of Probable Occupants: Without the exemption, the Entity would not be able to finance and undertake the Project in a manner that will allow it to maintain the affordability controls required for the Project. As a result, without the tax exemption the Entity would not be able to undertake the Project.

SECTION 2.08 Community Initiatives, Non-Discrimination and Affirmative Action

The Entity must comply with the requirements of all statutes, laws and regulations regarding non-discrimination and affirmative action in the employment of workers, including New Jersey P.L. 1975, c. 127 (N.J.A.C. 17:27), and shall further comply with the requirements set forth in Exhibit C.

{End of Article II}

ARTICLE III

DURATION OF AGREEMENT

SECTION 3.01 Term

This Agreement shall become operative on the Effective Date. The Parties understand and agree that this Agreement, including the obligation to pay the Annual Service Charge required under Article IV and the tax exemption granted and referred to in Section 2.01, shall remain in effect until the earlier of (i) thirty-five (35) years from Effective Date or (ii) thirty years (30) from the Annual Service Charge Commencement Date for the Project. At the expiration of the term hereof or upon Termination, the tax exemption for the Project shall expire and the Property shall thereafter be assessed and taxed according to the general law applicable to other non-exempt property in the Township. After expiration of the term hereof, all restrictions and limitations upon the Entity shall terminate upon the Entity's rendering and the Township's acceptance of its final accounting, pursuant to N.J.S.A. 40A:20-12.

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 notify the Township 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 Township'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 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 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 Exemption Law, or any violation by the Township 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

In consideration of the tax exemption, the Entity shall make payment of the Annual Service Charge beginning on the Annual Service Charge Commencement Date.

Payment of the Annual Service Charge shall be made to the Township on a quarterly basis in accordance with the Township's property tax collection schedule, February 1st, May 1st, August 1st, and November 1st, 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.

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.

In accordance with the 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 Township during the tax year, in accordance with Applicable Law.

SECTION 4.03 Application Fee

The Entity agrees to pay to the Township \$420.72, representing two (2%) percent of the estimated first year's Annual Service Charge, as a fee for processing the Application. For purposes of enforcement of collections, such payments shall be considered to be an additional part of the Annual Service Charge. In the event the Entity fails to pay the Application 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. The Application Fee is payable to the Township at the time of the filing of the Application.

SECTION 4.04 Annual Service Charge Calculation

(a) Pursuant to *N.J.S.A. 40A:20-12*, the Parties agree that The Annual Service Charge throughout the term of this Agreement shall be the amount equivalent to the greater of: (i) two (2%) percent of the Total Project Cost, or (ii) the Minimum Annual Service Charge.

(b)

1. Notwithstanding anything contained herein, at all times the Township Share shall be an amount equal to or greater than the Minimum Township Share. In any year the Annual Service Charge, as increased pursuant to Sections 4.04(a)-(e) above, yields a Township Share in an amount less than the Minimum Township Share, the Annual Service Charge shall be additionally increased by an amount necessary to cause the Township Share to be equal to the Minimum Township Share. Any such additional increase to the Annual Service Charge shall be deemed in compliance *N.J.S.A. 40A:20-12(b)(1)*, as an amount not less than 10% of Annual Gross Revenue.

2. Notwithstanding the provisions of the 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.

(c) From the Annual Service Charge paid by the Entity and received by the Township, the Township shall annually remit not less than five (5%) percent of the payment received to the County in accordance with the provisions of *N.J.S.A. 40A:20-12*.

SECTION 4.05 Land Taxes, Credits and Other Charges

(a) THE ENTITY HEREBY EXPRESSLY ACKNOWLEDGES, UNDERSTANDS AND AGREES THAT THE TAX EXEMPTION PROVIDED FOR HEREIN SHALL ONLY APPLY TO IMPROVEMENTS AND THAT LAND TAXES SHALL BE SEPARATELY ASSESSED BY THE TOWNSHIP ON THE PROPERTY IN ACCORDANCE WITH APPLICABLE LAW.

(b) The Entity is required to pay both the Annual Service Charge and to pay all Land Taxes. The Entity shall be liable for all real property taxes assessed and levied against the Land on which the Project is located and taxes assessed and levied on any improvements that are situated on the Property and are owned or leased by the Entity and which are not exempted hereunder or by other agreement.

(c) The Entity shall be entitled to credit for the amount, without interest, of the Land Taxes paid in the last four preceding quarterly installments against the Annual Service Charge. The Entity is obligated to pay timely Land Taxes in order to be entitled to a credit for Land Taxes against the Annual Service Charge for the subsequent year.

(d) The Entity hereby expressly acknowledges, understands, and agrees that, in addition to Annual Service Charges, it shall be responsible for the payment (without any credit whatsoever hereunder) of all other applicable municipal charges that may, from time to time, be lawfully assessed upon its property, including, without limitation, any and all special benefit assessments, water and sewer charges, and other municipal charges, whether presently existing or hereinafter imposed, and that the Township may enforce such assessments and charges in any manner (including, but not limited to, foreclosure or tax sale) permitted by applicable law.

SECTION 4.06 Material Conditions

It is expressly agreed and understood that payment of Annual Service Charges and any interest payments, penalties or costs of collection due thereon, are material conditions of this Agreement (“**Material Conditions**”). If any other term, covenant or condition of this Agreement or the Application, as to any person or circumstance shall, to any extent, be determined to be invalid or unenforceable by virtue of a non-appealable order of a court of competent jurisdiction, 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 remaining term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.

SECTION 4.07 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 Section 4.04 hereof shall be reduced, amended or otherwise modified during the term of this Agreement.

SECTION 4.08 Annual Service Charge as Municipal Lien

The Entity hereby expressly acknowledges, understands and agrees, and the Township acknowledges, without making any representation, warranty or covenant, that (i) the Annual Service Charge shall constitute an automatic, enforceable and perfected statutory municipal lien for all purposes, including specifically and without limitation, the Federal bankruptcy code, regardless of whether the amount of the Annual Service Charge has been determined, and (ii) any applicable process, procedure or action of any court,

government body or other relevant authority, including without limitation any confirmation hearing, to determine the amount of the Annual Service Charge due shall not affect the commencement or validity of the municipal lien.

{End of Article IV}

ARTICLE V

RESERVED

{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 take such actions as are necessary under Applicable Laws to obtain all required Certificates of Occupancy in a reasonably timely manner. The Township shall, in good faith, reasonably cooperate with the Entity and use its best efforts to support and expedite the review, comment and approval of any application of the Entity seeking a Certificate of Occupancy.

SECTION 6.02 Filing of Certificate of Occupancy

The Entity shall file or cause to be filed with both the Tax Assessor and the Tax Collector a copy of the Certificate of Occupancy promptly upon receipt thereof by the Entity. Failure of the Entity to file or cause to be filed such issued Certificate of Occupancy as required by the preceding paragraph shall not militate against any action or non-action by the Township, 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

REPORTS AND AUDITS

SECTION 7.01 Calculation of Net Profit.

For the purposes of this Agreement, the Entity agrees to calculate its “Net Profit” pursuant to N.J.S.A. 40A:20-3(c).

SECTION 7.02 Periodic Reports/Notices

(a) Auditor’s Report: Within ninety (90) days after the close of each fiscal or calendar year that this Agreement shall continue in effect, according to the Entity’s accounting basis, the Entity shall submit to the Mayor, Township Council, the Tax Collector and the Township Clerk, who shall advise those municipal officials required to be advised, and the Division of Local Government Services in the New Jersey 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. The Entity assumes all costs associated with preparation of the periodic reports. The Auditor’s Report must include a calculation of the Gross Revenue as defined in this Financial Agreement.

(b) Total Project Cost Audit: Within ninety (90) days after the Substantial Completion of the Project, the Entity shall submit to the Mayor, the Council, the Tax Collector and the Municipal 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, the Entity shall submit to the Mayor, Township Council, the Tax Collector and the Township 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 Township may reasonably request from time to time regarding such

ownership interest in the Project (each a “Disclosure Statement”).

(d) Accounting System: The Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles.

SECTION 7.03 Inspection

Upon reasonable request in writing, during normal business hours, the Entity shall permit (A) the inspection of its property, equipment, buildings and other facilities of the Project, and (B) the examination and audit of its books, contracts, records, documents and papers, in each case by representatives duly authorized by the Township and Division of Local Government Services in the New Jersey Department of Community Affairs as provided in the Redevelopment Agreement, provided that such rights of inspection also shall extend to representatives in the Division of Local Government Services in the New Jersey Department of Community Affairs pursuant to N.J.S.A. 40A:20-9(e), duly authorized by the Township, as reasonably deemed necessary and appropriate by the Township. The inspections and examinations shall not in any manner materially interfere with construction or operation of the Project. All costs incurred by the Township to conduct such inspections and/or audits, including reasonable attorneys’ fees if appropriate, shall be billed to the Entity and paid to the Township as an additional part of the Entity’s Annual Service Charge.

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 or dividends pursuant to the provisions of N.J.S.A. 40A:20-15 and N.J.S.A. 40A:20-3(c). Upon expiration or Termination of the tax exemption, the foregoing limitations on the profits or dividends of the Entity shall be of no further force or effect.

The Entity shall have the right in any year to establish and maintain a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount up to ten percent (10%) of the Annual Gross Revenues of the Entity for the last full fiscal year preceding the year in which the reserve is established or maintained, 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.

There is expressly excluded from calculation of “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, the amount of any sale, including any gain realized thereby, by the Entity on the sale of all or any portion of the Project, including a Unit, whether or not taxable under federal or State law.

SECTION 7.05 Prohibition Against Use of Master Leases or Related Techniques

The Entity agrees that the intent of this Agreement is to account for all revenue arising from the Project as if it accrues to the benefit of the Entity. The Entity shall therefore have no right to enter into any lease, contract or other agreement the effect of which is to interpose another person, corporation or other entity between the Entity and the end users of the Project for the purpose of reducing the amount of revenue accounted for as benefiting the Entity.

To the extent that the Township, in its sole discretion, determines that such an arrangement has been put in place, the Township shall have the right to recast the financial statements of the Entity so as to account for the Gross Revenue that would have accrued to the Entity had the arrangement not been in existence, and to require the Entity to make payments of the Annual Service Charge based on such recast financial statements.

Notwithstanding the foregoing, the Entity shall be permitted to enter into a lease for the operation and maintenance of the Project. The Entity agrees however, that any such agreements shall include provisions which shall have the effect of requiring the same amount to be payable to the Township pursuant to this Agreement as if no other agreements had been entered into by the Entity. Failure to include such provisions within any such additional agreement shall be grounds for Termination of this Agreement.

SECTION 7.06 Payment of Dividend and Excess Profit Charge

In the event the Net Profits of the Entity (after funding of any reserve described in Section 7.04), in any fiscal year, shall exceed the Allowable Net Profits for such period, then the Entity, within one hundred twenty (120) days after the end of such fiscal year, shall pay such excess Net Profits to the Township as an additional Annual Service Charge. 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 shall be treated by the Township as additional Annual Service Charge subject to the provisions of this Agreement.

{End of Article VII}

ARTICLE VIII

ASSIGNMENT AND/OR ASSUMPTION

SECTION 8.01 Approval

(a) As permitted by N.J.S.A. 40A:20-10, it is understood and agreed that the Township, on written application by the Entity, after Substantial Completion, will consent to a sale of the Project and the transfer of this Agreement provided: 1) the transferee entity does not own any other Project subject to long term tax exemption at the time of transfer; 2) the transferee entity is formed and eligible to operate under the Exemption Law; 3) the Entity is not then in Default of this Agreement or the Exemption Law; 4) the Entity's obligations under this Agreement are fully assumed by the transferee entity; 5) the transferee entity agrees to abide by all terms and conditions of this Agreement including, without limitation, the filing of an application pursuant to N.J.S.A. 40A:20-8, and any other terms and conditions of the Township in regard to the Project; and 6) the principal owners of the transferee entity possess the same business reputation, financial qualifications and credit worthiness as the Entity and are otherwise reputable; provided that any sale or transfer of the Property which is permitted by the Redevelopment Agreement, shall be permitted by this Agreement without the need to obtain the Township's consent to such sale.

(b) Where the consent or approval of the Township is sought for an assignment of the Agreement, the Township may levy an administrative fee of two percent (2%) of the then applicable Annual Service Charge for the review, preparation, and/or submission of documents to the Council for action on the requested assignment.

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

(d) A Declaration of Restriction on Transfer will be recorded against the Property in the office of the Essex County Register simultaneously with the recordation of this Agreement on or after the Effective Date.

SECTION 8.02 Operation of Project

The Project shall be operated in accordance with the provisions of the Exemption Law, as may be amended and supplemented. Failure to operate the Project pursuant to the terms of this Financial Agreement and the provisions of *N.J.S.A. 40A:20-1 et seq.*, shall be cause for termination.

SECTION 8.03 Subordination of Fee Title

It is expressly understood and agreed that the Entity has the right, subordinate to the lien of the Annual Service Charges and to the rights of the Township hereunder, to encumber and/or assign the fee title to the Land and/or Improvements for the sole purpose of obtaining financing for use in the construction or operation of the Project, and that any such encumbrance or assignment shall not be deemed to be a violation of this Agreement. This section shall not prohibit the encumbrance of a mortgage lien on the Property, it being expressly understood that a mortgage lien takes subject to the municipal lien created by the Annual Service Charge under the Exemption Law.

SECTION 8.04 Prohibition against Severing of Improvements From Land

The Entity hereby agrees at all times prior to the expiration or Termination of this Agreement to remain bound by the provisions of *N.J.S.A. 40A:20-1 et seq.*, as amended and supplemented. 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 Municipal Council by Ordinance, convey, mortgage or transfer, all or part of the Project so as to sever, disconnect, or divide the Improvements from the Lands which are basic to, embraced in, or underlying the exempted Improvements.

{End of Article VIII}

ARTICLE IX

WAIVER

SECTION 9.01 No Waiver

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

{End of Article IX}

ARTICLE X

NOTICE

SECTION 10.01 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 courier or overnight delivery service, as follows:

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

PBR Urban Renewal, LLC
Attn: Raghu Harinathan
Pankil Shah & Bhagwat Parmar
15 Sherman Blvd
Edison, New Jersey 08820
Phone: (732) 318-9553
Email: Raghuha@yahoo.com

With copies to:

Alan Siegel, Esq.
331 Main Street
Chatham, New Jersey 07928
Phone: (973) 635-1200

When sent to the Township it shall be addressed to:

Township of Irvington
Attn: Musa A. Malik, Esq., Business Administrator
1 Civic Square
Irvington, New Jersey 07111

With copies to:

Township of Irvington
Attn: Ramon E. Rivera, Esq., Township Attorney
1 Civic Square
Irvington, New Jersey 07111

Township of Irvington
Attn: Genia C. Philip, Esq., Director
Dept. of Economic Development & Grants Oversight
1 Civic Square, Room 102
Irvington, New Jersey 07111

and

McManimon, Scotland & Baumann, LLC
Attn: Glenn Scotland, Esq.
75 Livingston Avenue, Second Floor
Roseland, New Jersey 07068

The foregoing addresses may be changed or supplemented by written notice given as above provided. Notice to the Township shall identify the subject with the block and lot numbers, and any other qualifying designation as may apply, of the tax parcels comprising the Property. Any such notice sent by certified mail shall be deemed to have been received by the addressee on the third (3rd) business day after posting in the United States mail or, if transmitted by messenger or a priority delivery service, on the first (1st) business day after transmittal provided the sender has evidence of delivery. Counsel for a Party may give notice to the other Party with the same effect as if given by the Party.

{End of Article X}

ARTICLE XI

COMPLIANCE

SECTION 11.01 Statutes and Ordinances

The Entity hereby agrees at all times prior to the expiration or Termination of the tax exemption to remain bound by the provisions of Federal and State law and any lawful ordinances and resolutions of the Township, including, but not limited to, the Long Term Tax Exemption Law. The Entity's failure to substantially comply with such statutes or ordinances and the continuation of such noncompliance beyond any applicable notice, grace or cure period provided therein or herein, shall constitute a breach of this Agreement.

{End of Article XI}

ARTICLE XII

CONSTRUCTION

SECTION 12.01 Construction

This Agreement shall be construed and enforced in accordance with the laws of the State, 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 Township have combined in their review and approval of same.

{End of Article XII}

ARTICLE XIII

INDEMNIFICATION

SECTION 13.01 Indemnification

It is understood and agreed that in the event the Township shall be named as a party in any action brought against the Township or the Entity by allegation of any breach, Default or violation of any of the provisions of this Agreement and/or the provisions of the Exemption Law or by allegation and materially arising from or relating to the Project under any other Applicable Laws, the Entity shall indemnify and hold the Township 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 violation of any of the provisions of this Agreement, the provisions of the Exemption Law and/or any other Applicable Laws; provided, however, that the Entity shall not be required to indemnify the Township for any willful or negligent act, omission or misconduct by the Township or any of its officers, officials, employees or agents. Upon the Township becoming aware of any claim or loss for which indemnification is sought, the Township shall promptly provide the Entity with written notice thereof and demand for indemnification. The Entity shall defend against any such claim or loss at its own expense. The Township maintains the right to intervene as a party thereto, to which intervention the Entity hereby consents, the reasonable expense thereof to be borne by the Entity.

{End of Article XIII}

ARTICLE XIV

DEFAULT; REMEDIES; TERMINATION

SECTION 14.01 Default

Default shall be failure of the Entity to make payment of the Annual Service Charge when due hereunder or to otherwise fail to conform to the terms of this Agreement and any failure of the Entity to substantially observe and perform any other obligation imposed upon the Entity by Applicable Laws beyond any applicable notice, cure or grace period.

SECTION 14.02 Cure Upon Default

Should the Entity be in Default of any obligation under this Agreement, the Township shall notify the Entity and any mortgagee 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 Entity shall have sixty (60) days to cure any Default (other than a Default in payment of any installment of the Annual Service Charge) from the date of its receipt of the Default Notice; provided, however, that if such Default is not reasonably able to be cured within such sixty (60) day period and the Entity is diligently pursuing a cure, such cure period shall extend as long as the Entity continues diligently to pursue such cure, but in any event, not more than one hundred twenty (120) days from the date of Entity’s receipt of the Default Notice.

SECTION 14.03 Remedies Upon Default Cumulative; No Waiver

In the event of any uncured Default, the Township shall have the right to proceed against the Project, Phase and/or the Property pursuant to the provisions of Applicable Laws. Upon any Default in payment of any installment of the Annual Service Charge, the Township shall have the right to proceed to In Rem Tax Foreclosure consistent with the provisions and procedures of the Tax Sale Law.

Subject to the other terms and conditions of this Agreement including Section 14.04, all of the remedies provided in this Agreement to the Township, and all rights and remedies granted to the Township by law and equity, shall be cumulative and concurrent and no determination of the invalidity of any provision of this Agreement shall deprive the Township 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 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 Charge or other charges, or for breach of covenant or the resort of any other remedy herein provided for the recovery of Land Taxes, Annual Service Charge 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.

In the event of a Default under this Agreement by either of the Parties or a dispute arising between the Parties in reference to the terms and provisions as set forth herein, then 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 said laws. Costs for said arbitration shall be paid by each Party equally, to be reimbursed in full by the non-prevailing Party to the prevailing Party.

SECTION 14.04 Remedies

The Township's customary tax payment enforcement proceedings shall apply to the collection of any delinquent payment of the Annual Service Charge. 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, and the continuance of such Default after expiration of any notice, grace or cure periods under Applicable Laws, the Township in addition to its other remedies, reserves the right to proceed against the Entity's land and premises, in the manner provided by Applicable Laws, including the Tax Sale Law, and any act supplementary or amendatory thereof, provided that it is understood and agreed that the Township shall look solely to the estate and property of the Entity in the Project (including the rental income and insurance proceeds therefrom) for the satisfaction of the Township's remedies for the collection of a judgment or other judicial process requiring the payment of money by the Entity in the event of any Default or breach by the Entity with respect to any of the terms, covenants and conditions of this Agreement to be observed or performed by the Entity, and any other obligation of the Entity created by, under or as a result of this Agreement, and no other property or assets of the Entity, or of their partners, beneficiaries, shareholders, officers, directors, members, managers, tenants, principals, agents or attorneys (as the case may be) (in any of their capacities) shall be subject to service, levy, execution or other enforcement procedures for the satisfaction of the Township's remedies. In no event shall the Township name the Entity's partners, members, shareholder's, officers, directors, managers, beneficiaries, tenants, shareholders, principals, agents or attorneys (in any of their capacities) to any suit or other proceeding to which the Township and/or Entity are a party arising out of or relating to this Agreement.

The Township shall pursue the collection of delinquent payments of Annual Service Charge with the same diligence it employs in the collection of the Township's general *ad valorem* real estate taxes, including the commencement of an In Rem Tax Foreclosure. 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 Township to proceed in the above-mentioned manner.

SECTION 14.05 Termination upon Default of the Entity

In the event the Entity fails to cure or remedy the Default, including without limitation a Default as described in Section 14.01, within the time period provided in Section 14.02, the Township may terminate this Agreement upon thirty (30) days written notice to the Entity ("**Notice of Termination**").

SECTION 14.06 Final Accounting

Within ninety (90) days after the date of Termination of tax exemption, the Entity shall provide a final accounting and pay to the Township 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 date of Termination of this Agreement shall be deemed to be the last day of the fiscal year of the Entity in which the Termination occurred.

SECTION 14.07 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 Township.

{End of Article XIV}

ARTICLE XV

MISCELLANEOUS

SECTION 15.01 Conflict

The Parties agree that in the event of a conflict between the Application and this Financial

Agreement, the language in this Agreement shall govern and prevail.

SECTION 15.02 Oral Representations

There have been no oral representations made by either of the Parties which are not contained in this Agreement.

SECTION 15.03 Entire Document

All conditions in the Ordinance are incorporated in this Agreement and made a part hereof. This Agreement, the Ordinance and the Application constitute the entire agreement between the Parties as to the subject matter thereof and hereof.

SECTION 15.04 Good Faith

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

SECTION 15.05 Recording

Upon the execution and delivery of this Agreement, the entire Agreement, including the Ordinance, shall be filed and recorded with the office of the Essex County Register by the Entity, at the Entity's expense, such that this Agreement and the Ordinance shall be reflected upon the land records of the County as a perfected statutory municipal lien upon and a covenant running with each and every parcel of the Property including the Improvements related thereto.

SECTION 15.06 Municipal Services

The Entity shall make payments for municipal services, including, without limitation, water and sewer charges and any services that create a lien on a parity with or superior to the lien for the Land Taxes, if applicable, and the Annual Service Charge, as required by law. Nothing herein is intended to release the Entity from its obligation to make such payments.

SECTION 15.07 Waste and Refuse Disposal

The Entity shall comply with the Township Mandatory Recycling Ordinance to ensure that used corrugated cardboard, glass bottles and jars, food and beverage cans, newspapers and magazines and other recyclables deemed mandatory by the

Township are separated from waste and refuse emanating from the Project for the purpose of recycling.

SECTION 15.08 Force Majeure

Neither Party shall be liable to the other for failure to perform its obligations under this Agreement due to fire, flood, strikes, or other industrial disturbances, accidents, war, riot, insurrection, or other causes beyond the reasonable control of the Parties that have a material impact upon such Party's ability to perform its obligations hereunder.

SECTION 15.09 Counterparts; Electronic Signatures

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. Electronic or facsimile signatures shall constitute original signature for all purposes under this Agreement.

SECTION 15.10 Amendments

This Agreement may not be amended, changed, modified, altered or terminated, other than as may be set forth herein, without the written consent of the Parties hereto.

SECTION 15.11 Certification

The Township clerk shall certify to the Tax Assessor, that a Financial Agreement for the development of the Property has been entered into and is in effect as required by *N.J.S.A. 40A:20-1 et seq.* Delivery by the Township clerk to the Tax Assessor of a certified copy of the Ordinance adopted by the Township 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 Township 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 Township Clerk that the exemption has been terminated.

Further, upon the execution of this Agreement, a certified copy of the Ordinance and this Agreement shall forthwith be transmitted to the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, by the Township Clerk.

SECTION 15.12 Severability

If any terms or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the

application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each other term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by Applicable Laws. Further, provided that a Default has not been declared under this Agreement, the Parties shall cooperate to take the actions reasonably required to restore the Agreement in a manner contemplated by the Parties, including, but not limited to, the authorization and amendment of this Agreement in a form reasonably drafted to effectuate the original intent of the Parties. Notwithstanding the foregoing, if the long term tax exemption is declared invalid or unenforceable or if the benefit thereof is materially and adversely affected by judicial action, this Agreement shall be deemed null and void.

SECTION 15.13 Estoppel Certificate

Within thirty (30) days following written request therefor by the Entity, or any mortgagee, purchaser, tenant or other party having an interest in the Project, the Township shall issue a signed estoppel certificate in reasonable form stating that (i) this Financial Agreement is in full force and effect; (ii) to the best of the Township's knowledge, no Default has occurred under this Financial Agreement (nor any event which, with the passage of time and 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. In the event the estoppel certificate discloses a Default, it shall also state the manner in which such Default may be cured.

{End of Article XV}

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

URBAN RENEWAL
ASSOCIATES, LLC,
a New Jersey limited liability company

By: _____

TOWNSHIP OF IRVINGTON

By: _____

Mayor

STATE OF NEW JERSEY :
: ss
COUNTY OF ESSEX :

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____ Urban Renewal Associates, LLC, a New Jersey limited liability company, by _____, members, on behalf of the company.

Notary Public

Commission Expiration: _____

STATE OF NEW JERSEY :
: ss
COUNTY OF ESSEX :

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by the TOWNSHIP OF IRVINGTON, a municipal corporation of the County of Essex and State of New Jersey, by _____, its Mayor, on behalf of the Township.

Notary Public

Commission Expiration: _____

Exhibit A

Exemption Application

Exhibit B

Ordinance

Exhibit C

Community Initiatives

Equal Employment Opportunity

The Entity agrees that during construction of the Project:

(i) The Entity will not discriminate against any employee of the Entity or applicant for employment because of race, color, religion, sex, or national origin. The Entity will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The Entity agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause and any such notices provided by the Township that are consistent therewith.

(ii) The Entity will, in all solicitations or advertisements for employees placed by or on behalf of the Entity, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(iii) The Entity shall use good faith and commercially reasonable efforts to include qualified and certified Minority Business Enterprises, Women's Business Enterprises, and Small Business Enterprises as subcontractors and suppliers to the Project wherever possible.

(iv) The obligations contained in this Section shall be binding on all contractors and subcontractors to the extent that any work on the Project is done by any contractor or subcontractor, and any contract entered into by the Entity shall so provide.

First Source Employment

The Entity agrees to employ, and shall require in each of its contracts with contractors that they and their subcontractors must employ, residents of the Township in the construction of the Project, and in the operation and maintenance of the Project following Completion of Construction for so long as this Financial Agreement remains in effect with respect to the Project. Thirty (30%) percent of billable construction laborer, administrative and clerical hours associated with the Project shall be provided by Township residents or by employees of Minority Business Enterprises and Women's Business Enterprises, consistent with market wages. The Township shall designate a Township official to oversee and monitor the Entity's compliance with these First Source Employment requirements and

affirmative action requirements, at no cost to the Entity. The Entity will engage in and cooperate with efforts to recruit Township residents for all employment opportunities in connection with the Project, including participation in Township job fairs and utilization of a central employment registry, if the Township maintains such a registry. The Entity agrees to meet periodically with the Township's designee at the designee's request, to discuss the status of the Entity's employment efforts and compliance with the requirements of this Section 2.07. All contracts entered into by the Entity for the construction of the Project shall contain appropriate language to effectuate this provision and the Entity covenants to enforce its contracts with its contractors and subcontractors, if such parties are not in compliance with the requirements of this Exhibit.

Affirmative Action

The Entity during the construction of the Project covenants that it will comply with and shall provide in its contracts with its contractors and subcontractors, the following:

(i) The Entity shall use good faith and commercially reasonable efforts to undertake a program of local preference to facilitate entering into contracts with and/or purchasing good and services from local merchants and businesses located within the Township, including preferences for local retail and restaurant businesses;

(ii) Where applicable, the Entity shall at all times conform to the laws, regulations, policies of the State, the Federal government, and other governmental bodies with respect to affirmative action and equal employment opportunities requirements, and particularly those which are imposed as a condition to receipt of any government sponsored funding for the Project, notwithstanding any other provision of this Agreement to the contrary.

(iii) The Entity shall use good faith and commercially reasonable efforts to undertake a program of preference to facilitate entering into contracts with and/or purchasing goods and services from Minority Business Enterprises, Women's Businesses Enterprises, and Small Business Enterprises at a rate of 20%.

(a) Reporting and Enforcement.

(i) The Entity shall submit monthly reports regarding compliance with this Section as the Township may reasonably require.

(ii) Reports submitted by the Entity shall include names, addresses, ethnic origin of those who apply and are interviewed for employment including those denied employment. Reports should also include businesses hired, recruitment efforts including advertisements and letters to community groups advising them of employment and business opportunities.

(iii) The Entity covenants to enforce its contracts with its contractors and subcontractors if such parties are not in compliance with this Section.

(iv) The penalties for non-compliance with this Exhibit shall be as set forth in the Code of the Township.

Exhibit D

Certificate of Formation

EXHIBIT E

Certification of Estimated Construction Costs

TOTAL PROJECT COST - N.J.S.A. 40A:20-3h

- A. Cost of Land and Improvements
\$580,000.00
- B. Architect, engineer and attorney fees paid or payable
in connection with the planning, construction and financing of
the Project
\$41,000.00
- C. Surveying and testing charges
\$2,500.00
- D. Actual construction costs, including site preparation
(to be certified by the architect)
\$360,000.00
- E. Insurance, interest and finance costs during construction
\$9,200.00
- F. Cost of obtaining initial permanent financing
\$5,300.00
- G. Commissions and other expenses payable in connection
with initial leasing/sale
\$1,800.00
- H. Real estate taxes and assessments during the construction
\$16,000.00
period
- I. Developer's overhead based on a percentage of (D) above,
\$36,000.00
to be computed in accordance with percentage given in

law (N.J.S.A. 40A:20-3h) (\$1,000,000 through \$2,000,000
- \$90,000 plus 7% on excess above \$1,000,000
5%)

Total

\$1,051,800.00

The undersigned hereby certifies that the foregoing is the projected total project cost in regard to the Project referenced in this Financial Agreement.

By: _____

The public hearing on this ordinance is now open.

There were no requests to be heard.

Cox – Lyons

Motion to close public hearing

Adopted

Absent: Burgess, Hudley

Cox- Lyons

Motion to adopt this ordinance on second reading after public hearing.

Adopted

No: Inman

Absent: Burgess, Hudley

9. Resolutions & Motions

A. Resolutions

Cox – Lyons 9. Authorize Payment Over the Aggregate Pay to Play Threshold of \$17,500.00 and Under the Bid Threshold of \$40,000.00 for IT Support Services – NetTarius Technology Solutions, LLC - \$17,888.95

**AUTHORIZING PURCHASE OVER THE PAY TO PLAY THRESHOLD OF
\$17,500.00**

WHEREAS, the Township of Irvington intends to enter into contracts with vendors over the pay-to-play threshold of \$17,500.00 through this resolution and properly executed purchase orders as needed, which shall be subject to all the conditions applicable law of N.J.A.C. 5:34- et seq; and,

WHEREAS, the Township has obtained three quotes for this service from Netconnect, NetTarius Technology Solutions LLC, and Friendware Computer Systems, herein attached; and

WHEREAS, NetTarius Technology Solutions, LLC of PO Box 111579, Irvington, NJ 07111 has provided the lowest quote of \$17,888.95; and

WHEREAS, in compliance with 19:44a-20.13 et., seq., NetTarius Technology Solutions, LLC will exceed the Pay-to-Play threshold of \$17,500.00 for calendar year 2017; and,

WHEREAS, NetTarius Technology Solutions, LLC has completed the Township C-271, elect reports and political disclosure forms. These forms are on file in the Division of Purchasing Office and the Municipal Clerk; and

WHEREAS, all purchases to the above vendor will not exceed the bid threshold of \$40,000.00; and

NOW, THEREFORE, BE IT RESOLVED, that the Municipal Council of the Township of Irvington hereby authorizes the Qualified Purchasing Agent to pay the above vendor in excess of pay to play threshold \$17,500.00 but under the bid threshold of \$40,000.00; and

BE IT FURTHER RESOLVED, the Chief Financial Officer will pay this vendor \$17,888.95 on from account number T-21-41-850-17E-806

BE IT FURTHER RESOLVED that the duration of this authorization shall be until December 31, 2017

BE IT FURTHER RESOLVED a separate resolution will be submitted to the Municipal Council for all addition vendors exceeding the bid threshold of \$17,500.00.

Adopted
No: Inman
Absent: Burgess, Hudley

12. Miscellaneous

B. General Hearing of Citizens and Council Members (limited to five minutes per person)

Elouise McDaniel, 214 Nesbit Terrace
Lauren Shears Agnew, Essex County Public Information Officer
Cherish Quine, 213 Nesbit Terrace
Gora Nduna, 12 Beaumont Place

Council Member Jones and Council President Lyons addressed the issues raised by the above referenced citizens.

13. Adjournment

There being no further business, the meeting was adjourned at 8:29 P.M.

David Lyons, Council President

Harold E. Wiener, Municipal Clerk