



Agenda
Meeting of the Municipal Council
Wednesday, October 12, 2016
REGULAR MEETING

I. Executive Session - 5:00 p.m.

A. Contract Negotiations

1. Amendments to the Waterfront Redevelopment Plan
2. 1101 Ocean Avenue Financial Agreement/Redevelopers Agreement
3. Overlook Park a/k/a Kennedy Park Redevelopers Agreement

B. Potential Litigation

1. In Rem Tax Foreclosure Properties

C. Litigation

1. Westside Community Center v. City of Asbury Park

II. Regular Meeting - 7:00 p.m.

B. Silent Prayer/Moment of Reflection

C. Salute to the Flag

D. Announcement - Open Public Meetings Act

As to comply with the "Open Public Meetings Act," Chapter 231, P.L. 1975, adequate Notice of this meeting has been provided in the following manner: The Annual Notice was forwarded to the Asbury Park Press, The Coaster and The Star Ledger on January 6, 2016, and posted on the bulletin board the same date. All notices are on file with the City Clerk.

E. PROCLAMATION RECOGNIZING PASTOR

F. Matters from City Council

G. Matters from City Manager

H. Matters from City Attorney

I. Public Participation

J. Minutes

- September 26, 2016 Executive Session Minutes
- September 26, 2016 Workshop Meeting
- September 28, 2016 Executive Session
- September 28, 2016 Regular Meeting

K. Consent Agenda Resolutions

All matters listed on the Consent Agenda are presented collectively to the City Council, and will be considered for approval with one vote. These matters are considered to be routine in nature, and there will be no individual discussion of these items. If discussion is desired by one or more Council member(s) as to any particular item(s), then said item(s) shall be removed from the Consent Agenda and considered separately.

2016-246 Special Event Resolution

2016-234 Resolution authorizing the payment of payroll in the amount of \$1,013,883.54

2016-235 Resolution of the City of Asbury Park, County of Monmouth, State of New Jersey Providing for the Insertion of Special Items of Revenue in the 2016 Budget of the City of Asbury Park Pursuant to N.J.S.A. 40a:4-87 (Chapter 159)

2016-236 Resolution of the City of Asbury Park, County of Monmouth, State of New Jersey Providing for the Insertion of Special Items of Revenue in the 2016 Budget of the City of Asbury Park Pursuant to N.J.S.A. 40a:4-87 (Chapter 159)

2016-237 Amending the Metered Parking Requirements in the Downtown and Waterfront Areas of the City, Effective Every Saturday During the Time Period from November 26, 2016 through December 24, 2016

2016-241 Resolution Approving Community YMCA Senior Citizen Swimming Program

2016-238 A Resolution of the City of Asbury Park Releasing the Performance Bond for 621 Lake Avenue (Block 2404, Lots 4.01 and 4.02 and Accepting Maintenance Guarantee

2016-239 Resolution to Refund Overpayment of Taxes (iStar Asset Services, Inc.)

L. Individual Resolutions

2016-240 Resolution Authorizing the Payment of Bills in the Amount of \$2,066,280.39

2016-244 Rejecting Request for Proposals for Consultant Services for the EPA Grant – Brownfield Hazardous Assessment

- 2016-242 Adopting the Monmouth County Home Consortium FU 2017 Annual Action Plan for Housing and Community Development Programs
- 2016-243 A Resolution Of The Mayor And Council Of The City Of Asbury Park, Acting As The Waterfront Redevelopment Entity, Authorizing The Issuance Of Certificate Of Completion To Madison Asbury Retail, Llc, For The 3rd Avenue Pavilion
- 2016-245 Return of Certain Properties
- 2016-247 Resolution of the City of Asbury Park Making Application to the Local Finance Board Seeking Authorization for not to Exceed \$17,500,000 Redevelopment Area Bonds to Finance the Construction and Installation of Certain Infrastructure Improvements within a Portion of the Asbury Park Waterfront Redevelopment Area Pursuant To N.J.S.A. 40A:12A-29(A)(3) and N.J.S.A. 40A:12A-67

M. Ordinances

1. Introduction

- 2016-36 An Ordinance Vacating A Portion Of Lee's Lane Right Of Way Asbury Park, New Jersey
- 2016-35 An Ordinance Amending an Ordinance Entitled 'Streets, Sidewalks and Sidewalk Signs; Work within City Right-of-Way Areas' Chapter 16-1 of the Revised General Ordinances of the City of Asbury Park, Monmouth County, and State of New Jersey
- 2016-37 Approving and Adopting an Amendment to the Central Business District Redevelopment Plan Relating to the Sections Titled Parking and Circulation, Cookman Avenue Retail Core and to Implementation of Redevelopment Plan
- 2016-38 Ordinance of the City of Asbury Park Authorizing the Execution of a Financial Agreement with AP Block 176 Venture Urban Renewal LLC and Granting a Tax Exemption
- 2016-39 An Ordinance of the City of Asbury Park, in the County of Monmouth, State of New Jersey, Providing for the Special Assessment of the Cost of Certain Wastewater, Stormwater, Roadway, Streetscape, Utility and Other Infrastructure Improvements on Block 4002, Lot 1 within the Asbury Park Waterfront Redevelopment Area and Establishing a Mechanism for Payment of the Cost Thereof

2. Second Reading/Public Hearing

- 2016-31 BOND ORDINANCE PROVIDING FOR VARIOUS COMMUNICATION SYSTEM IMPROVEMENTS, BY AND IN THE CITY OF ASBURY PARK, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING \$1,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,428,571 BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF

2016-33 An Ordinance Amending and Supplementing Chapter XX “Environmental Regulations”, by Adding Subsection 20-1.7 “Private Catch Basin Retrofitting” of the “Revised General Ordinances of the City of Asbury Park, New Jersey

N. Adjournment



MINUTES
Meeting of the Municipal Council
Monday, September 26, 2016
WORK SESSION

City Clerk Dye called the meeting to order at 6:00 p.m.

The following Council Members were present: Council Member Eileen Chapman, Council Member Yvonne Clayton, Council Member Jesse Kendle, Deputy Mayor Amy Quinn and Mayor John Moor. Also present were: City Attorney Frederick Raffetto, City Manager Michael Capabianco and City Clerk Cindy Dye.

City Clerk Dye announced the following: “As to comply with the “Open Public Meetings Act,” Chapter 231, P.L. 1975, adequate Notice of this meeting has been provided in the following manner: The Annual Notice was forwarded to the Asbury Park Press, The Coaster and Star Ledger on January 6, 2016, and posted on the bulletin board the same date. All notices are on file with the City Clerk.”

City Manager’s Report on Issues Raised at Prior Council Meeting(s).

City Manager Capabianco stated that there was no follow-up reports.

Special Event Applications – Leesha Floyd was present to review the applications.

- a. AP Homecoming Parade
- b. Harvest Fest
- c. RunAPalooza (date only)
- d. Columbus Day Reenactment
- e. AP AYF Pep Rally

Review of Agenda Items for September 28, 2016 Regular meeting

City Manager Capabianco reviewed the agenda with Council and responded to questions.

Matters from City Council - None

Matters from City Manager

- 1. 2016-2017 Best Practices Checklist

City Manager Capabianco reviewed the Best Practices Checklist with the Council.

2. 2017 - 2019 Insurance Renewal - Intergovernmental JIF

City Manager Capabianco reviewed the insurance renewal process with the Council.

3. Workforce Development

City Manager Capabianco reviewed the process for the workforce development to Council.

4. Police Training

City Manager Capabianco reviewed the police training proposal to the City Council.

5. Stormwater Ordinance

City Manager Capabianco reviewed the Stormwater Ordinance with the City Council.

Matters from City Attorney - None

Public Participation (Announcement by City Clerk):

A motion was made to open the meeting to the public by Council Member Kendle. It was seconded by Council Member Chapman. All were in favor.

No one from the public spoke

A motion was made to close public comment made by Mayor Moor and seconded by Council Member Chapman. All were in favor.

A motion was made to adjourn the meeting made by Council Member Kendle and seconded by Council Member Clayton. All were in favor.

The meeting was adjourned.

Respectfully submitted by:

Cindy A. Dye, City Clerk



MINUTES
Meeting of the Municipal Council
Wednesday, September 28, 2016
REGULAR MEETING

City Clerk Dye called the meeting to order at 7:00 p.m.

The following Council Members were present: Council Member Eileen Chapman, Council Member Yvonne Clayton, Council Member Jesse Kendle, Deputy Mayor Amy Quinn and Mayor John Moor. Also present were: City Attorney Frederick Raffetto, City Manager Michael Capabianco and City Clerk Cindy Dye.

City Clerk Dye announced the following: “As to compliance with the “Open Public Meetings Act,” Chapter 231, P.L. 1975, adequate Notice of this meeting has been provided in the following manner: The Annual Notice was forwarded to the Asbury Park Press, The Coaster and Star Ledger on January 6, 2016, and posted on the bulletin board the same date. All notices are on file with the City Clerk.”

MATTERS FROM CITY COUNCIL

Council Member Clayton stated that there will be HUD meeting for the community on September 29 regarding the \$500,000 grant the City received.

Council Member Kendle expressed concerns regarding the taxi drivers.

MATTERS FROM CITY MANAGER

City Manager Capabianco updated the residents regarding the sound system for the Council meetings.

MATTERS FROM THE CITY ATTORNEY - None

PUBLIC PARTICIPATION

Motion made by Council Member Kendle and seconded by Council Member Chapman to open the meeting to the public. All were in favor.

City Clerk Dye made the following announcement: “The Public is expected to conduct themselves in a proper manner. Any derogatory, abusive, or threatening statements will not be permitted. The Chair will immediately rule such conduct out of order and, after appropriate warning, may terminate any further comments from that speaker.”

The following members of the public spoke: Rita Marano, Lori Ross, Jerry Scarano, Rev. John Brantley, Bob Alfori and Tracy Rogers.

Motion made by Deputy Mayor Quinn and seconded by Council Member Chapman to close the public portion of the meeting. All were in favor.

A. Minutes

- September 12, 2016 – Workshop Meeting
- September 14, 2016 – Executive Session
- September 14, 2016 – Regular meeting

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman			X		
Council Member B. Yvonne Clayton			X		
Council Member Jesse Kendle	X		X		
Deputy Mayor Amy Quinn		X	X		
Mayor John Moor			X		

Consent Agenda Resolutions.

[All matters listed on the Consent Agenda are presented collectively to the City Council, and will be considered for approval with one vote. These matters are considered to be routine in nature, and there will be no individual discussion of these items. If discussion is desired by one or more Council member(s) as to any particular item(s), then said item(s) shall be removed from the Consent Agenda and considered separately.]

2016-386 Approving Special Events/Wedding Applications as Presented on September 26, 2016.

Resolution # 2016-386

**City of Asbury Park
County of Monmouth
State of New Jersey**

WHEREAS, at work session meeting of the Mayor and Council held on September 26, 2016 the following Special Events Applications were presented for approval by the Director of Recreation:

1. AP Homecoming Parade
2. Harvest Fest
3. RunAPalooza(date only)
4. Columbus Day Reenactment
5. AP AYF Pep Rally

WHEREAS, the Mayor and Council have determined to approve said applications, so long as all requirements of the City's "Special Events" Ordinance (Section 4-10 of the City Code) have been satisfied by the respective applicants, as well as any other requirements imposed by the City's Police Department and/or Special events Committee.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, that all the above referenced Special Events Applications are hereby approved, so long as all requirements of the City's "Special Events" Ordinance (Section 4-10 of the City Code) have been satisfied by the respective applicants, as well as any other requirements imposed by the City's Police Department and/or Special events Committee.

2016-387 Resolution Authorizing the Payment of Payroll in the Amount of \$1,026,071.00

**Resolution #2016-387
City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE PAYMENT OF PAYROLL IN THE AMOUNT OF \$1,026,071.00

WHEREAS, the September 15, 2016 payroll in the amount of \$1,026,071.00 has been approved by the Chief Financial Officer and has subsequently been audited and found correct.

BE IT RESOLVED, that the payroll payable totaling \$1,026,071.00 is hereby authorized to be paid, and;

BE IT FURTHER RESOLVED, that proper officers are hereby authorized to execute payment of said payroll.

2016-388 Resolution of the City of Asbury Park, County of Monmouth, State of New Jersey Authorizing an Increase to Clerk's Change Fund

**Resolution #2016-388
City of Asbury Park
County of Monmouth
State of New Jersey**

**RESOLUTION OF THE CITY OF ASBURY PARK,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY
AUTHORIZING AN INCREASE TO CLERKS CHANGE FUND**

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth, New Jersey the City Clerk change fund of \$25.00 be increased to \$200.00.

2016-389 Resolution of the City of Asbury Park, County of Monmouth, State of New Jersey Providing for the Insertion of Special Items of Revenue in the 2016 Budget of the City of Asbury Park Pursuant to N.J.S.A. 40A:4-87 (Chapter 159)

**Resolution #2016-389
City of Asbury Park
County of Monmouth
State of New Jersey**

**RESOLUTION OF THE CITY OF ASBURY PARK, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY PROVIDING FOR THE INSERTION OF SPECIAL ITEMS
OF REVENUE IN THE 2016 BUDGET OF THE CITY OF ASBURY PARK
PURSUANT TO N.J.S.A. 40A:4-87(CHAPTER 159)**

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

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2016 in the sum of \$39,118.83 which is now available from the State of New Jersey Clean Communities.

BE IT FURTHER RESOLVED that a like sum of \$39,118.83 is hereby appropriated under the following caption:

General Appropriations:

Operations Excluded from "CAPS":

Public & Private Programs Offset by Revenues:

Clean Communities Grant \$39,118.83

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Asbury Park, that the City Clerk be and is hereby authorized to file said resolution in duplicate with the Director of the Division of Local Government Services and to provide a certified copy of this resolution to the City's Chief Financial Officer and City Auditor.

2016-390 Resolution to Refund Overpayment of Taxes (Block 9000, Lot 1)

**Resolution #2016-390
Resolution of the City of Asbury Park
RESOLUTION TO REFUND OVERPAYMENT OF TAXES
WHEREAS, an overpayment of 2013 taxes for the property indicated:**

<u>BLOCK</u>	<u>LOT</u>	<u>REMITTEE</u>	<u>AMOUNT TO BE REMITTED</u>
9000	1	Verizon – NJ	\$87,342.69

C/O Duff & Phelps
Various Properties

WHEREAS, the following amounts have been paid by Verizon payable to the City of Asbury Park:

\$28,176.52 paid on 1/25/13,
\$28,176.52 paid on 4/19/13, and
\$30,989.65 paid on 7/23/13

BE IT RESOLVED that a certified copy of this resolution be forwarded to the Finance Department and Tax Collector forthwith.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Mayor and Council for the City of Asbury Park authorize the Tax Collector to refund Verizon- NJ in the amount of \$87,342.69 for 2013 overpayment of taxes.

2016-391 A Resolution Ratifying a Contract with the House of Independents for the
“Meet The Candidates” Forum

Resolution # 2016-391

**City of Asbury Park
County of Monmouth
State of New Jersey**

**A RESOLUTION RATIFYING A CONTRACT WITH THE HOUSE OF
INDEPENDENTS FOR THE ‘MEET THE CANDIDATES’ FORUM**

WHEREAS, the City Clerk conducted an e-mail poll on September 21, 2016 to award a time sensitive contract in the amount of \$800.00 to the House of Independents to host the ‘Meet the Candidates’ event on October 17, 2016; and

WHEREAS, this Resolution ratifies the telephone poll; and

WHEREAS, the contract is attached to this Resolution; and

WHEREAS, the City’s CFO has certified that funds are available in the following account: 6-01-20-162-000-299; and

WHEREAS, the City of Asbury Park authorizes the City Manager to sign any and all contracts and paperwork associated with this award.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park (the “City”), in the County of Monmouth, State of New Jersey that the telephone poll is hereby ratified for the contract awarded to the House of Independents to host the ‘Meet the Candidates’ forum.

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman			X		
Council Member B. Yvonne Clayton	X		X		
Council Member Jesse Kendle			X		
Deputy Mayor Amy Quinn		X	X		
Mayor John Moor			X		

Individual Resolutions

2016-392 Resolution Authorizing the Payment of Bills in the Amount of
\$575,189.37

Council Member Chapman abstained from PO 16-00908

Mayor Moor abstained from line item 6-01-23-220-000-209.

**Resolution #2016-392
City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE PAYMENT OF BILLS IN THE AMOUNT OF \$575,189.37

WHEREAS, the following listed vouchers payable have been approved by the Chief Financial Officer and have subsequently been audited and found correct:

BE IT RESOLVED, that these vouchers payable totaling \$575,189.37
to be paid and:

BE IT FURTHER RESOLVED, that proper officers are hereby authorized to execute and issue warrants for payment of said vouchers, but only if and when the conditions of the City Treasury shall permit.

TOTAL VOUCHERS \$ 575,189.37

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman			X		
Council Member B. Yvonne Clayton			X		
Council Member Jesse Kendle		X	X		
Deputy Mayor Amy Quinn	X		X		
Mayor John Moor			X		

2016-393 Resolution to Join the New Jersey Intergovernmental Insurance Fund
(NJIFF)

Resolution # 2016-393

City of Asbury Park

**County of Monmouth
State of New Jersey**

WHEREAS, the Municipal Council of the City of Asbury Park (hereinafter the “Local Unit”) has determined that MEMBERSHIP IN THE New Jersey Intergovernmental Insurance Fund (hereinafter the “Fund”) established pursuant to Chapter 372, Laws of 1983 (N.J.S.A. 40A:10-36 et seq), is in the best interest of the municipality.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the City of Asbury Park in the County of Monmouth and the State of New Jersey as follows:

SECTION 1. The City of Asbury Park hereby agrees to continue as a member in the “Fund” for a period commencing on **01/01/2017** and terminating on **12/31/2019** for the following types of insurance coverage:

- ☒ a) Workers Compensation and Employers Liability
- ☒ b) General Liability (including Police Professional & Public Officials Liability);
- ☒ c) Motor Vehicle and Equipment Liability Coverage;
- ☒ d) Property Damage (including Building & Contents, Automobile Physical Damage, Contractors Equipment and Boiler & Machinery)
- ☒ e) Environmental Impairment Liability

SECTION 2. Local Unit agrees to enter into and abide by the terms of the Indemnity and Trust Agreement, attached hereto as Exhibit 1. Local Unit hereby authorizes and directs City of Asbury Park to execute the Indemnity and Trust Agreement and such other documents as are necessary to comply with the requirements if the Fund.

SECTION 3. The Bylaws of the New Jersey Intergovernmental Insurance Fund are hereby adopted and accepted by the Local Unit and the Local Unit hereby agrees to conduct its membership in the “Fund” according to the rights and obligations set forth therein.

SECTION 4. The Local Unit certifies that it has never defaulted on claims under a self insurance plan and that it has not had its insurance canceled for non-payment of premium for a period of at least two (2) years prior to this application.

SECTION 5. Inconsistent Resolutions. All resolutions, or parts thereof that are or may be, inconsistent with provisions of this Resolution are hereby repealed to the extent of such inconsistency.

SECTION 6. Severability. If any section, paragraph, subdivision, clause or provision of this Resolution shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Resolution shall be deemed valid and effective.

SECTION 7. Effective Date. This Resolution shall take effect upon its passage.

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman	X		X		
Council Member B. Yvonne Clayton		X	X		
Council Member Jesse Kendle			X		
Deputy Mayor Amy Quinn			X		
Mayor John Moor			X		

City Manager Capabianco explained the training program to the residents.

Resolution # 2016-394

**City of Asbury Park
County of Monmouth
State of New Jersey**

**AUTHORIZING A CONTRACT WITH THE CANNING GROUP LLC TO CONDUCT
POLICE DEPARTMENT MANAGEMENT TRAINING**

WHEREAS, the Mayor and Council of the City of Asbury Park has a desire to ensure that staff is well trained; and

WHEREAS, the City insurance carrier, the New Jersey Intergovernmental Insurance Fund (NJiif) has been working with City staff and the City's appointed Risk Manager to identify areas where training could reduce further liability while ensuring a highly trained workforce; and

WHEREAS, the NJiif is proposing providing the City funding for management training for the Police Department in the amount of \$8,000.00 as part of the insurance renewal for 2017 – 2019; and

WHEREAS, the State Fiscal Monitor agrees that this training would be advantageous to the City; and

WHEREAS, the N.J.S.A 40A:11-5(1)(a) allows for a extraordinary unspecifiable service not to be bid if the governing body states in the Resolution the rationale for not bidding a contract; and

WHEREAS, the rationale for this contract is that the Temporary Purchasing Agent has been unable to locate another firm experienced in New Jersey law, regulations and New Jersey Civil Service rules that provides this management training; and

WHEREAS, the Canning Group LLC. proposal and schedule are hereby attached to this Resolution; and

WHEREAS, as per N.J.A.C 5:30-5.5(d) only that the work completed in each respective fiscal year shall be charged to that fiscal years; and

WHEREAS, the Temporary Purchasing Agent states that there is no impact on the FY16 budget; and

WHEREAS, the impact on the FY17 budget will be approximately \$10,000.00 but no work may be completed unless the CFO has certified that funds are available in the Temporary or Regular budget; and

WHEREAS, the contract shall only be signed upon receipt of the signed Waiver as required of the Memorandum of Understanding with the State of New Jersey and the renewal of the NJiif contract in which they will contribute \$8,000.00 to the cost; and

WHEREAS, the City Manager is authorized to sign any and all documents related to this services.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park (the “City”), in the County of Monmouth, State of New Jersey that the Canning Group LLC is awarded a contract to provide police training services pending the signing of the Waiver by the State of New Jersey’s fiscal monitor and funding provided by the NJiif.

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman			X		
Council Member B. Yvonne Clayton		X	X		
Council Member Jesse Kendle			X		
Deputy Mayor Amy Quinn	X		X		
Mayor John Moor			X		

- 2016-395 A Resolution of the Mayor and Council of the City of Asbury Park, Acting as the Redevelopment Entity, Regarding an Agreement Regarding the Use of Certain Parking Spaces Walkways and Boardwalk Areas with Madison Asbury Retail, LLC for Construction Staging Areas for the Construction Work on the Fifth Avenue Pavilion on Block 4502, Lot 1.16

Resolution # 2016-395
Resolution of the City of Asbury Park

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF ASBURY PARK, ACTING AS THE REDEVELOPMENT ENTITY, REGARDING AN AGREEMENT REGARDING THE USE OF CERTAIN PARKING SPACES WALKWAYS AND BOARDWALK AREAS WITH MADISON ASBURY RETAIL, LLC FOR CONSTRUCTION STAGING AREAS FOR THE CONSTRUCTION WORK ON THE FIFTH AVENUE PAVILION ON BLOCK 4502, LOT 1.16

WHEREAS, by Resolution # 2016-331 adopted on July 27, 2016, the Mayor and City Council, acting as the City’s Redevelopment Entity, granted conceptual review with conditions of Madison Asbury Retail, LLC’s, (“**MA Retail**”) proposal for certain renovations to the Fifth Avenue Pavilion building which primarily includes constructing a new bandshell on the roof of the building (known as the Pryor Bandshell) (the “**Project**”), and

WHEREAS, by Resolution # 2016-354 adopted on August 10, 2016, the Mayor and City Council, accepted the Letter-Agreement from MA Retail dated August 10, 2015 in satisfaction of condition 3(v) of Resolution # 2016-331, regarding certain free public events in the bandshell space; and

WHEREAS, MA Retail obtained preliminary and final site plan approval for the Project from the Planning Board on the evening of September 19, 2016; and

WHEREAS, MA Retail by letter of September 20, 2016 requested approval from the City, as required by the Planning Board, to use certain parking spaces on Ocean Avenue adjacent to the 5th Avenue

Pavilion, the walkway to the east of the Pavilion and certain areas on the Boardwalk adjacent to Pavilion, for construction staging areas; and

WHEREAS, the City desires to enter into an agreement setting forth their approval and conditions of the use of the construction staging areas,

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Asbury Park, acting as the Waterfront Redevelopment Entity, as follows:

I. GENERAL

The aforementioned recitals are incorporated herein as though fully set forth at length.

II. EXECUTION OF AGREEMENT AUTHORIZED

(a) The Mayor is hereby authorized to execute the Agreement, substantially in the form as it has been presented to the City Council, and attached hereto as **EXHIBIT A**, subject to additions, deletions, modifications or revisions deemed necessary and appropriate in consultation with counsel.

(b) The Clerk of the City is hereby authorized and directed, upon the execution of the Agreement in accordance with the terms of Section II (a) hereof, 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 City upon such document.

III. DETERMINATION OF MATTERS IN CONNECTION WITH THE AGREEMENT

The Mayor is hereby authorized and directed to determine all matters and terms in connection with the Agreement, all in consultation with the counsel to the City, and the manual or facsimile signature of the Mayor upon any documents shall be conclusive as to all such determinations. The Mayor, the City Manager, the Chief Financial Officer, the City Clerk and any other City official, officer or professional, including but not limited to, redevelopment counsel, bond counsel, the financial advisor and the auditor to the City, are each hereby authorized and directed to execute and deliver such documents as are necessary to facilitate the transactions contemplated hereby, and to take such actions or refrain from such actions as are necessary to facilitate the transactions contemplated hereby, in consultation with, as applicable, redevelopment counsel to the City, and any and all actions taken heretofore with respect to the transactions contemplated hereby are hereby ratified and confirmed.

IV. SEVERABILITY

If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

V. AVAILABILITY OF THE RESOLUTION

A copy of this Resolution shall be available for public inspection at the offices of the City.

VI. EFFECTIVE DATE

This Resolution shall take effect immediately.

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman	X		X		
Council Member B. Yvonne Clayton			X		

Council Member Jesse Kendle		X	X		
Deputy Mayor Amy Quinn			X		
Mayor John Moor			X		

2016-396 Resolution of the City of Asbury Park Making Application to the New Jersey Local Finance Board Pursuant to N.J.S.A. 40A:3-1 et seq. and Previous Approvals by Said Board

Resolution # 2016-396

**City of Asbury Park
County of Monmouth
State of New Jersey**

**RESOLUTION OF THE CITY OF ASBURY PARK MAKING
APPLICATION TO THE NEW JERSEY LOCAL FINANCE
BOARD PURSUANT TO N.J.S.A. 40A:3-1 ET SEQ. AND
PREVIOUS APPROVALS BY SAID BOARD**

WHEREAS, the City Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey (the "City") desires to adopt a bond ordinance (the "Ordinance") providing for the issuance of one or more series of general improvement bonds of the City in the not to exceed aggregate principal amount of \$1,428,571 (the "Bonds") and notes in anticipation thereof, in order to finance various communication system improvements by and in the City; and

WHEREAS, in connection with various previous applications by the City to the Local Finance Board, in the Division of Local Government Services, New Jersey Department of Community Affairs (including specifically its applications in connection with certain bonds and refunding bonds issued under the Municipal Qualified Bond Act, N.J.S.A. 40A:3-1 et seq. (the "MQBA")), the Local Finance Board has heretofore conditioned its approvals upon the undertaking by the City that, for the duration of such bond issues, all future capital authorizations shall require approval from the Local Finance Board; and

WHEREAS, the City believes that:

- (a) it is in the public interest to accomplish such purpose;
- (b) such purpose is in compliance with the requirements of the MQBA;
- (c) said purpose or improvements are for the health, welfare, convenience or betterment of the inhabitants of the City;
- (d) the amounts to be expended for such purpose or improvements are not unreasonable or exorbitant and are consistent with the requirements of the MQBA; and
- (e) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the City and will not create an undue financial burden to be placed upon the City; and

WHEREAS, the City Council desires to make application to the Local Finance Board for (i) its approval of the adoption of the Ordinance and the capital authorizations contained therein, and (ii) its approval of the issuance of, and of the proposed maturity schedule for such Bonds, to be issued in the form of "qualified bonds" under the MQBA; and

WHEREAS, the City believes that the maturity schedules contained in the Application to the Local Finance Board are in the best interests of the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASBURY PARK, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, as follows:

Section 1. The Application to the Local Finance Board is hereby approved, *nunc pro tunc*, and ratified and the City's Bond Counsel, Chief Financial Officer, City Manager and Financial Advisor, along with other representatives of the City, are hereby authorized to prepare such application, to file such application with the Local Finance Board and to represent the City in matters pertaining thereto.

Section 2. The Clerk is hereby directed to prepare and file a copy of this Resolution and the Ordinance with the Local Finance Board as part of such application.

Section 3. The Local Finance Board is hereby respectfully requested to consider such application and to record its findings, recommendations and/or approvals as provided by the applicable New Jersey Statute, including causing its consent to be endorsed upon a certified copy of the Ordinance.

Section 4. This Resolution shall take effect immediately upon its adoption.

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman	X		X		
Council Member B. Yvonne Clayton		X	X		
Council Member Jesse Kendle			X		
Deputy Mayor Amy Quinn			X		
Mayor John Moor			X		

2016-397 Resolution of the Mayor and City Council of the City of Asbury Park Authorizing the Execution of a State Aid Agreement with the State of New Jersey (Department of Environmental Protection), in Order to Facilitate the Proposed Wesley Lake Stormwater Outfall Repair Project

**Resolution # 2016-397
City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF ASBURY PARK AUTHORIZING THE EXECUTION OF A STATE AID AGREEMENT WITH THE STATE OF NEW JERSEY (DEPARTMENT OF ENVIRONMENTAL PROTECTION), IN ORDER TO FACILITATE THE PROPOSED

WESLEY LAKE STORMWATER OUTFALL REPAIR PROJECT.

WHEREAS, the City of Asbury Park (the “City”) is the owner of certain land situated in the City which is more particularly known and designated as Block 4402, Lot 1 on the Tax Map of the City (the “Property”), which property is located immediately adjacent to the Wesley Lake; and

WHEREAS, in order to facilitate a proposed stormwater outfall repair of the Wesley Lake (the “Project”), the City has requested State aid assistance;

WHEREAS, the parties have reached a mutual understanding as to the terms and conditions associated with the State aid assistance to be provided to the City relating to the Project; and

WHEREAS, said terms and conditions are set forth in more detail in the attached State Aid Agreement (the “Agreement”) between the parties; and

WHEREAS, the Mayor and City Council believe that it is in the City’s best interests to execute the attached Agreement, signifying their approval of the terms and conditions contained therein.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That the City hereby authorizes the execution of the attached Agreement, or one which is substantially similar thereto and meets with the approval of the City Attorney and City Engineer.
2. That the Mayor is hereby authorized to execute, and the City Clerk to attest, the attached Agreement, or one which is substantially similar thereto and meets with the approval of the City Attorney and City Engineer.
3. That a certified copy of this Resolution shall be provided to each of the following:
 - (a) State of New Jersey
Department of Environmental Protection
Engineering & Construction
Attn: William T. Dixon, Manager, Bureau of Coastal Engineering
 - (b) Michael Capabianco, City Manager;
 - (c) Michele Alonso, Director of Planning and Redevelopment;
 - (d) William McClave, Superintendent of Public Works
 - (e) Christine Ballard, P.E. (T&M Associates), City Engineer; and
 - (f) Frederick C. Raffetto, Esq., Municipal Attorney.

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman	X		X		

Council Member B. Yvonne Clayton			X		
Council Member Jesse Kendle		X	X		
Deputy Mayor Amy Quinn			X		
Mayor John Moor			X		

K. Ordinances:

1. Introduction:

2016-39 An Ordinance Amending and Supplementing Chapter XX “Environmental Regulations”, by Adding Subsection 20-1.7 “Private Catch Basin Retrofitting” of the “Revised General Ordinances of the City of Asbury Park, New Jersey

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman			X		
Council Member B. Yvonne Clayton			X		
Council Member Jesse Kendle		X	X		
Deputy Mayor Amy Quinn	X		X		
Mayor John Moor			X		

Public hearing is scheduled for October 12, 2016.

2016-40 Bond Ordinance Providing for Various Communication System Improvements, by and in the City of Asbury Park, in the County of Monmouth, State of New Jersey; Appropriating \$1,500,000 Therefor and Authorizing the Issuance of \$1,428,571 Bonds or Notes of the City to Finance Part of the Cost Thereof

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman		X	X		
Council Member B. Yvonne Clayton	X		X		
Council Member Jesse Kendle			X		
Deputy Mayor Amy Quinn			X		
Mayor John Moor			X		

Public hearing is scheduled for October 12, 2016.

2016-37 An Ordinance Amending and Supplementing Chapter VII “Traffic”, Subsection 7-41 “Metered Parking” of the “Revised General Ordinances of the City of Asbury Park, New Jersey.”

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman			X		
Council Member B. Yvonne Clayton			X		
Council Member Jesse Kendle	X		X		
Deputy Mayor Amy Quinn		X	X		
Mayor John Moor			X		

Public hearing is scheduled for October 12, 2016.

- 2016-38 Establishing a Restricted Parking Space for Use By Handicapped Persons at Property Located at 4 Deal Lake Court, in the City of Asbury Park, and Amending and Supplementing Section 7-36, Entitled, “Handicapped Parking,” of Chapter VII, “Traffic,” of the “Revised General Ordinances of the City Of Asbury Park, New Jersey.”

	MOTION	SECOND	AYES	NAYES	ABSTAIN
Council Member Eileen Chapman			X		
Council Member B. Yvonne Clayton			X		
Council Member Jesse Kendle	X		X		
Deputy Mayor Amy Quinn		X	X		
Mayor John Moor			X		

Public hearing is scheduled for October 12, 2016.

The meeting was adjourned.

Respectfully submitted by:

Cindy A. Dye, RMC, City Clerk



RESOLUTION NO. 2016-246

**City of Asbury Park
County of Monmouth
State of New Jersey**

SPECIAL EVENT RESOLUTION

WHEREAS, at work session meeting of the Mayor and Council held on October 12, 2016 the following Special Events Applications were presented for approval by the Director of Recreation:

1. Crucial Catch Day 2016
2. Harvest Fest at Springwood Park
3. Epic Will Power, Inc (requesting a City date)
4. AP Fishing Club (requesting a City date)

WHEREAS, the Mayor and Council have determined to approve said applications, so long as all requirements of the City's "Special Events" Ordinance (Section 4-10 of the City Code) have been satisfied by the respective applicants, as well as any other requirements imposed by the City's Police Department and/or Special events Committee.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, that all the above referenced Special Events Applications are hereby approved, so long as all requirements of the City's "Special Events" Ordinance (Section 4-10 of the City Code) have been satisfied by the respective applicants, as well as any other requirements imposed by the City's Police Department and/or Special events Committee.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-246 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS DAY OF , .

CINDY A. DYE
CITY CLERK



RESOLUTION NO. 2016-234

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE PAYMENT OF PAYROLL IN THE AMOUNT OF \$1,013,883.54

WHEREAS, the DATE payroll in the amount of \$1,013,883.54, has been approved by the Chief Financial Officer and has subsequently been audited and found correct; and

BE IT RESOLVED, that the payroll payable totaling \$1,013,883.54 is hereby authorized to be paid, and;

BE IT FURTHER RESOLVED, that proper officers are hereby authorized to execute payment of said payroll.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-234 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS DAY OF , .

CINDY A. DYE
CITY CLERK



RESOLUTION NO. 2016-235

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION OF THE CITY OF ASBURY PARK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY PROVIDING FOR THE INSERTION OF SPECIAL ITEMS OF REVENUE IN THE 2016 BUDGET OF THE CITY OF ASBURY PARK PURSUANT TO N.J.S.A. 40A:4-87 (CHAPTER 159)

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

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2016 in the sum of \$269,310 which is now available from the Department of Homeland Security/Federal Emergency Management Agency.

BE IT FURTHER RESOLVED that a like sum of \$269,310 is hereby appropriated under the following caption:

General Appropriations:

Operations Excluded from "CAPS":

Public & Private Programs Offset by Revenues:

Staffing for Adequate Fire & Emergency Response (SAFER) \$269,310

BE IT FURTHER RESOLVED, by the Mayor and City Council of the City of Asbury Park, that the City Clerk be and is hereby authorized to file said resolution in duplicate with the Director of the Division of Local Government Services and to provide a certified copy of this resolution to the City's Chief Financial Officer and City Auditor.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-235 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS 13th DAY OF October, 2016.

CINDY A. DYE
CITY CLERK



RESOLUTION NO. 2016-236

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION OF THE CITY OF ASBURY PARK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY PROVIDING FOR THE INSERTION OF SPECIAL ITEMS OF REVENUE IN THE 2016 BUDGET OF THE CITY OF ASBURY PARK PURSUANT TO N.J.S.A. 40A:4-87 (CHAPTER 159)

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

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2016 in the sum of \$474,055 which is now available from the Department of Justice/Office of Community Oriented Policing.

BE IT FURTHER RESOLVED that a like sum of \$474,055 is hereby appropriated under the following caption:

General Appropriations:
Operations Excluded from "CAPS":
Public & Private Programs Offset by Revenues:
COPS Grant 2016 - \$474,055

BE IT FURTHER RESOLVED by the Mayor and City Council of the City of Asbury Park, that the City Clerk be and is hereby authorized to file said resolution in duplicate with the Director of the Division of Local Government Services and to provide a certified copy of this resolution to the City's Chief Financial Officer and City Auditor.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-236 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS DAY OF , .

CINDY A. DYE
CITY CLERK



RESOLUTION NO. 2016-237

**City of Asbury Park
County of Monmouth
State of New Jersey**

AMENDING THE METERED PARKING REQUIREMENTS IN THE DOWNTOWN AND WATERFRONT AREAS OF THE CITY, EFFECTIVE EVERY SATURDAY DURING THE TIME PERIOD FROM NOVEMBER 26, 2016 THROUGH DECEMBER 24, 2016

WHEREAS, the requirements concerning metered parking in the downtown and waterfront areas of the City of Asbury Park (“the City”) were established per Ordinance No. 2982 (the “Ordinance”), which was adopted by the Mayor and City Council on May 19, 2011, and which has subsequently been amended in certain limited respects; and

WHEREAS, the Mayor and Council have previously taken action by Resolution to modify the metered parking requirements as set forth in the Ordinance for certain temporary periods of time for various reasons; and

WHEREAS, as an incentive to encourage increased business for the merchants in the downtown and waterfront areas of the City during the holiday season, the Mayor and Council wish to temporarily suspend the metered parking requirements in those areas so as to allow for “free” parking between the hours of 12:00 p.m. and 6:00 p.m. of each Saturday, commencing on November 26, 2016, through to and including December 24, 2016; and

WHEREAS, the purpose of this Resolution is to memorialize this temporary suspension of the metered parking requirements.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and City Council of the City of Asbury Park that the metered parking requirements in the downtown and waterfront areas of the City, as established per Ordinance No. 2982, as amended, are hereby suspended so as to allow for “free” parking 12:00 p.m. and 6:00 p.m. of each Saturday, commencing on November 26, 2016, through to and including December 24, 2016.

BE IT FURTHER RESOLVED that as of Saturday, December 31, 2016, the regular metered parking requirements as set forth in Ordinance No. 2982, as amended, shall resume once again.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- (a) Parking Committee;
- (b) Michael N. Capabianco, City Manager;
- (c) Acting Police Chief Anthony Salerno;
- (d) Christine Ballard, P.E. (T&M Associates), City Engineer; and
- (e) Frederick C. Raffetto, Esq., City Attorney

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-237 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS 13th DAY OF October, 2016.

CINDY A. DYE
CITY CLERK



RESOLUTION NO. 2016-241

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPROVING COMMUNITY YMCA SENIOR CITIZEN SWIMMING PROGRAM

WHEREAS, the City of Asbury Park desires to establish and maintain healthy and viable recreational programs and activities for the residents of Asbury Park; and

WHEREAS, for the past ten years, The Asbury Park Senior Center has contracted with The Community YMCA, 166 Maple Avenue, Red Bank, N.J. 07701 to provide water aerobics and open swimming for participants of the senior center; and

WHEREAS, the Asbury Park Senior Center desires to continue this program for the period between September 4, 2016 through June 30, 2017; and

WHEREAS, The Community YMCA agrees to provide one session per week of water aerobics, open swimming, and use of locker facilities for the period between September 4, 2016 through December 18, 2016.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the City of Asbury Park, hereby authorize the City Manager to enter into a contract with The Community YMCA, 166 Maple Avenue, Red Bank, N.J. 07701.

BE IT FURTHER RESOLVED that the contract is not to exceed \$2,280.24 for the duration of the contract.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-241 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS 13th DAY OF October, 2016.

CINDY A. DYE
CITY CLERK



FOR YOUTH DEVELOPMENT®
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

2016-2017 Facility Use Agreement

This Agreement is made and entered into this 24th day of August, 2016 by and between The Community YMCA ("YMCA") Red Bank Family Health and Wellness Center, a New Jersey not for profit corporation and **CITY OF ASBURY PARK SENIOR CENTER**, 1 Municipal Plaza, Asbury Park, NJ 07112.

WHEREAS, **CITY OF ASBURY PARK SENIOR CENTER** desires to use the YMCA facility for the purpose of One hour for participants to take a water aerobics class or lap swim and,

WHEREAS, the YMCA desires to rent the YMCA facility to **CITY OF ASBURY PARK SENIOR CENTER** and,

WHEREAS, it is the desire of the parties to memorialize this understanding in a written agreement;

NOW, THEREFORE, in consideration of the mutual promises set forth below, the parties hereby agree as follows:

1. Term

The term of this Agreement shall be for the period of *September 8, 2016 – June 15, 2017* as follows:
Thursdays, 1:30 – 2:30 pm on the following dates:

September 8 & 22	January 5 & 19	May 4 & 18
October 6 & 20	February 2 & 16	June 1 & 15
November 3 & 17	March 2 & 16	
December 1 & 15	April 6 & 20	

2. Facility and Services

The YMCA facility and services covered by this agreement at the Family Health & Wellness Center pool include:

Maximum fifteen (15) participants for the following activities:

One (1) hour water aerobics class in ½ of the Huber Pool 1:30 – 2:30 p.m. (September-June)

Use of 1 lap lane for lap swimming with YMCA members 1:30 – 2:30 p.m. (September-June)

*Hours in July and August will be 2:45-3:45 p.m.

Use of Facility Locker rooms **15 minutes prior** to and **15 minute after rental time**.

The period of time as listed in Term above

1 Lifeguard

1 Water Fitness Instructor

3. Payment

CITY OF ASBURY PARK SENIOR CENTER shall compensate YMCA as follows:

Attachment: Asbury Park Seniors 2016-2017 (2016-241 : YMCA Senior Swim Agreement)

Total cost for the twenty-four (24) visits at the rate of \$316.70 per visit is \$7,600.80, less a 70% scholarship of \$5320.56 for a total of \$2280.24. *Monthly invoices will be billed as visits are completed and due 90 days after invoiced.*

A signed contract to hold the space/time *is due October 6, 2016.*

Insurance certificate of liability is due *October 6, 2016.*

Adult and Chaperone waivers are due by *October 6, 2016.*

4. Responsibilities of Facility User

- A. Karen Murphy f#(732)502-5199 Office# () - () (or her designated representative of *CITY OF ASBURY PARK SENIOR CENTER* Name: _____ and Contact #: ()) will assume the responsibility to supervise all Participants while they are in the facility or on the YMCA premises.
- B. An adult supervisor from *CITY OF ASBURY PARK SENIOR CENTER*, at least 21 years of age, must be present in the building at all times. The adult supervisor from *CITY OF ASBURY PARK SENIOR CENTER* must be able to enforce all YMCA rules of conduct and safety with their group.
- C. Participants must take a soap shower prior to entering pool.
- D. Participants must wear a bathing cap if hair is in their eyes or on neck.
- E. Participants must be offered opportunity to use restroom before entering pool.
- F. Participants must be kept out of the pool if they are not feeling well or in an infectious state.
- G. *CITY OF ASBURY PARK SENIOR CENTER* must provide a list of participants no later than *October 6, 2016.*
- H. *CITY OF ASBURY PARK SENIOR CENTER* must return attached waiver forms for each adult coming into the facility no later than *October 6, 2016.*
- I. Staff must sign the group in at the front desk every day that are attending.
- J. Participants and staff must remove shoes before going onto the pool deck.
- K. Use of cell phones is permitted only in the YMCA lobby.

5. Responsibilities of YMCA

- A. The YMCA will be responsible for the one (1) hour of water aerobics instructor. The YMCA will have one (1) lifeguard stationed on the pool deck while the aerobics class and free swim are occurring.

6. Insurance.

The YMCA shall maintain at its expense during the term of this Agreement comprehensive general liability insurance for personal injury, death or property damage arising out negligence by the YMCA and/or its agents arising out of the use of the YMCA facility. The insurance shall be in the minimum amount of One Million Dollars (\$1,000,000) per occurrence. *CITY OF ASBURY PARK SENIOR CENTER* shall maintain at its expense during the terms of this Agreement comprehensive general liability insurance for the protection of *CITY OF ASBURY PARK SENIOR CENTER* against claims for personal injury, death or property damage arising out negligence by *CITY OF ASBURY PARK SENIOR CENTER* and/or its agents arising out of the use of the YMCA facility. The insurance shall be in the minimum amount of One Million Dollars (\$1,000,000).

7. Indemnification.

A. *CITY OF ASBURY PARK SENIOR CENTER* shall indemnify, defend with competent counsel and hold the YMCA, its employees and agents harmless of and from any loss, damage, claim or expense including reasonable attorney's fees arising out of any negligent act by *CITY OF ASBURY PARK SENIOR CENTER* and/or a *CITY OF ASBURY PARK SENIOR CENTER* Employee or Agent which causes harm of any type to a *CITY OF ASBURY PARK SENIOR CENTER* Participant, *CITY OF ASBURY PARK SENIOR CENTER* Employee, YMCA Employee or YMCA or participant in the YMCA facility or property damage to the YMCA facility under this agreement.

B. YMCA shall indemnify, defend with competent counsel and hold *CITY OF ASBURY PARK SENIOR CENTER* its employees and agents harmless of and from any loss, damage, claim or expense including reasonable attorney's fees arising out of any negligent act by YMCA and/or a YMCA Employee or Agent which causes harm of any type to a *CITY OF ASBURY PARK SENIOR CENTER* participant in the YMCA facility or damage to any *CITY OF ASBURY PARK SENIOR CENTER* property in the facility under this agreement.

8. Assignment.

Neither *CITY OF ASBURY PARK SENIOR CENTER* nor the YMCA shall have the right to assign this Agreement without prior written approval of the parties.

9. Attorney's Fees.

If suit or action is brought to enforce this Agreement or any provision hereof, or to rescind or disaffirm this Agreement or any provision hereof, the prevailing party shall be entitled to recover reasonable attorney's fees and expenses, both trial and appellate, in addition to its costs and disbursements allowed by law, which shall include the costs of any discovery proceedings.

10. Binding Effect.

This Agreement shall be binding upon, and shall inure to the benefit of the parties and their respective successors and assigns.

11. Amendments.

No alterations to or modifications of the terms or the provisions of this Agreement shall be effective unless such alteration or such modification is reduced in writing and is then properly executed by the parties hereto.

12. Nonprofit Status of YMCA.

Should anything in this Agreement adversely affect the YMCA's not-for-profit status, this Agreement may be voided at the YMCA's sole option.

13. Arbitration.

CITY OF ASBURY PARK SENIOR CENTER and YMCA agree that any controversy, dispute, or claim ("Claim") by either *CITY OF ASBURY PARK SENIOR CENTER* or YMCA against the other, or against the employees, agents, or assigns of the other, whether based on contract, tort, or any other legal basis or theory, that arises from or relates to (a) this Agreement, (b) services rendered by us pursuant to this Agreement, (c) the relationships that result from this Agreement, or (d) the validity, scope, enforceability, or applicability for this arbitration provision to a Claim shall be resolved by binding arbitration. *CITY OF ASBURY PARK SENIOR CENTER* and YMCA may choose either the American Arbitration Association ("AAA") or a local *CITY OF ASBURY PARK SENIOR CENTER* forum to conduct any Arbitration proceeding. If either is unwilling or unable to conduct the arbitration proceeding, or if *CITY OF ASBURY PARK SENIOR CENTER* or YMCA is unable to agree on another arbitrator, they will substitute another national or regional arbitration organization.

IN WITNESS WHEREOF, each the parties has duly executed this Agreement on the day and date forth above.

YMCA:

By: _____

Title: Aquatics Director

Date: _____

CITY OF ASBURY PARK SENIOR CENTER:

By: _____

Title: _____

Date: _____

YMCA:

By: _____

Title: Program Director

Date: _____



RESOLUTION NO. 2016-238

**City of Asbury Park
County of Monmouth
State of New Jersey**

A RESOLUTION OF THE CITY OF ASBURY PARK RELEASING THE PERFORMANCE BOND FOR 621 LAKE AVENUE (BLOCK 2404, LOTS 4.01 AND 4.02 AND ACCEPTING MAINTENANCE GUARANTEE

WHEREAS, InSite Engineering, LLC has inspected 621 Lake Avenue (Block 2404, Lots 4.01 and 4.02); and

WHEREAS, InSite Engineering, LLC has determined that the condition of the improvements is satisfactory; and

WHEREAS, InSite Engineering, LLC has determined that the condition of the improvements is satisfactory, and with due regard to the passage of time; and

WHEREAS, it is the recommendation of the InSite Engineering, LLC that the City of Asbury Park release the Performance Guarantee in the amount of \$636 and upon a posting of the two (2) year Maintenance Guarantee in the amount of \$79.50, provided that the release of the Performance Bond is contingent upon the payment of all outstanding escrow invoices.

WHEREAS, it is the intention of the City Council and in the best interest of the City of Asbury Park to release the Performance Guarantee and accept a two year Maintenance Guarantee in the amount referenced herein, contingent upon the payment of all outstanding escrow invoices, in accordance with the InSite Engineering, LLC's recommendations.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the city of Asbury Park, assembled in public session this 12th day of October, 2016, that the performance guarantee in the amount of \$636 be released for the improvements described above and accept a two (2) year maintenance guarantee of \$79.50 as well.

BE IT FURTHER RESOLVED that copies of this resolution shall be provided to the Finance Director, InSite Engineering, LLC, Planning Board Secretary and applicant for their information and attention.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION

NO. 2016-238 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS DAY OF , .

CINDY A. DYE
CITY CLERK



RESOLUTION NO. 2016-239

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION TO REFUND OVERPAYMENT OF TAXES (ISTAR ASSET SERVICES, INC.)

WHEREAS, an overpayment of 2016 taxes for the property indicated:

WHEREAS, the following amounts have been paid by iStar Asset Services, Inc. payable to the City of Asbury Park:

	<u>Block</u>	<u>Lot</u>	<u>Property Info.</u>	<u>Credit Balance Amount due</u>	<u>Year</u>	<u>ck # Q1 paid</u>	<u>ck # Q2 paid</u>
1	3205	2	410 Sewall Ave.	\$ 2,827.28	2016	13587	14238
2	3205	3	408 Sewall Ave.	\$ 1,764.56	2016	13587	14238
3	3205	4	406 Sewall Ave	\$ 1,764.56	2016	13587	14238
4	3205	5	404 Sewall Ave.	\$ 1,764.56	2016	13587	14238
5	3205	6	402 Sewall Ave.	\$ 1,764.56	2016	13587	14238
6	3205	7	400 Sewall Ave.	\$ 2,827.28	2016	13587	14238
7	3205	8	401 Monroe Ave.	\$ 2,827.28	2016	13587	14238
8	3205	9	403-409 Monroe Av	\$ 4,036.12	2016	13587	14238
9	3205	10	413 Monroe Ave.	\$ 1,791.13	2016	13587	14238
10	3901	8	209 First Ave.	\$ 1,377.72	2016	13503	14238
11	3903	1	801 Kingsley St.	\$ 7,840.79	2014	13503	14238
12	4104	3	210 Fifth Ave.	\$15,444.87	2016	13503	14238
13	4104	4	200 Fifth Ave.	\$13,011.68	2016	13503	14238
14	4104	5	1221 Kingsley St.	\$ 2,688.91	2016	13503	14238
15	4104	6	1201 Kingsley St.	\$ 3,069.71	2016	13503	14238
16	4104	7	205 Fourth Ave.	\$ 2,501.82	2016	13503	14238
17	4104	8	207 Fourth Ave.	\$ 177.92	2016	13503	14238
18	4104	10	213 Fourth Ave	\$ 2,478.58	2016	13503	14238
19	4104	11	217-223 Fourth Ave	\$ 4,249.78	2016	13503	14238
				\$74,209.11	Total		

<u>BLOCK</u>	<u>LOT</u>	<u>REMITTEE</u>	<u>AMOUNT TO BE REMITTED</u>
--------------	------------	-----------------	------------------------------

Various block/lots	iStar Asset Services, Inc. 180 Glastonbury Blvd., Ste 201 Glastonbury, CT 06033	\$74,209.11
--------------------	---	-------------

BE IT RESOLVED that a certified copy of this resolution be forwarded to the Finance Department and Tax Collector forthwith.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Mayor and Council for the City of Asbury Park authorize the Tax Collector to refund iStar Asset Services, Inc. in the amount of \$74,209.11 for 2016 overpayment of taxes.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-239 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS DAY OF , .

CINDY A. DYE
CITY CLERK



RESOLUTION NO. 2016-240

**City of Asbury Park
County of Monmouth
State of New Jersey**

**RESOLUTION AUTHORIZING THE PAYMENT OF BILLS IN THE AMOUNT OF
\$2,066,280.39**

WHEREAS, the following listed vouchers payable have been approved by the Chief Financial Officer and have subsequently been audited and found correct:

BE IT RESOLVED, that these vouchers payable totaling \$2,066,280.39

BE IT FURTHER RESOLVED, that proper officers are hereby authorized to execute and issue warrants for payment of said vouchers, but only if and when the conditions of the City Treasury shall permit.

CURRENT VOUCHERS	\$ 1,502,242.39
BOARD OF EDUCATION	\$ 564,038.00
TOTAL VOUCHERS	\$ 2,066,280.39

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-240 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS 13th DAY OF October, 2016.

CINDY A. DYE
CITY CLERK

**RESOLUTION NO. 2016-244**

**City of Asbury Park
County of Monmouth
State of New Jersey**

**REJECTING REQUEST FOR PROPOSALS FOR CONSULTANT SERVICES FOR
THE EPA GRANT – BROWNFIELD HAZARDOUS ASSESSMENT**

WHEREAS, the City of Asbury Park is rejecting the Proposals for the EPA Grant - Brownfield Hazardous Assessment as per the New Jersey Local Public Contracts Law N.J.S.A 40A:11-13.29a). Rejection of bids - Lowest bid substantially exceeds cost estimate.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park (the “City”), in the County of Monmouth, State of New Jersey that responses to the request for IT Consultant are rejected as per N.J.S.A 40A:11-13.29a). Rejection of bids - Lowest bid substantially exceeds cost estimate.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-244 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS DAY OF , .

CINDY A. DYE
CITY CLERK



RESOLUTION NO. 2016-242

**City of Asbury Park
County of Monmouth
State of New Jersey**

ADOPTING THE MONMOUTH COUNTY HOME CONSORTIUM FY 2017 ANNUAL ACTION PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

WHEREAS, the submission of the City's Fiscal Year 2017 Annual Action Plan for Housing and Community Development Programs (hereinafter referred to as the "Consolidated Plan") is a requirement of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended; and

WHEREAS, the County Planning Board's Community Development staff, in conjunction with the staff from the other participating cities; Asbury Park, Long Branch and Middletown Township, has prepared its FY-2017 Annual Action Plans in accordance with Federal Regulations and will collectively submitted those plans including Asbury Park's, to the U.S. Department of Housing and Urban Development (HUD) on November 15, 2016. The Annual Action Plan is a planning document and management tool that will assist the City in addressing their housing and community development needs; and

WHEREAS, the Federal regulations require program grantees to identify housing and community development needs and develop a plan for carrying out the strategies necessary to meet its housing and community development needs; and

WHEREAS, the City of Asbury Park held a public hearing on September 7, 2016 in order to provide citizens, public agencies, and other interested parties an opportunity to provide comments and suggestions on the FY-2017 Annual Action Plan; and

WHEREAS, the City has the right and authority under the said CDBG Program to allocate a portion of its funds to non-profit agencies.

WHEREAS, the Mayor and City Council wish to allocate the total sum of \$94,951 from CDBG funds to Community Affairs Resource Center; Boys & Girls Club of Monmouth; Interfaith Neighbors; and Asbury Park Historical Society.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Governing body that the City's FY-2017 Annual Action Plan for Housing and Community Development Programs be and the same is hereby approved and authorized.

BE IT FURTHER RESOLVED that the City Manager be and hereby is authorized to execute any and all documents as may be required by the U.S. Department of Housing and Urban Development for the submission and securing grant funds.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-242 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS DAY OF , .

CINDY A. DYE
CITY CLERK



RESOLUTION NO. 2016-243

**City of Asbury Park
County of Monmouth
State of New Jersey**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF ASBURY PARK, ACTING AS THE WATERFRONT REDEVELOPMENT ENTITY, AUTHORIZING THE ISSUANCE OF CERTIFICATE OF COMPLETION TO MADISON ASBURY RETAIL, LLC, FOR THE 3RD AVENUE PAVILION

WHEREAS, Madison Asbury Retail, LLC (the “**Developer**”) pursuant to the Subsequent Developer Agreement among the City of Asbury Park and Madison Asbury Retail, LLC and Asbury Partners, LLC dated June 1, 2010 (the “**SDA**”) undertook certain work at the 3rd Avenue Pavilion; and

WHEREAS, the SDA provides that upon completion of the required work on the 3rd Avenue Pavilion, the Developer may apply for a Certificate of Completion, which in part recognizes that the work has been completed and releases the Developer from their responsibilities under the SDA as to the 3rd Avenue Pavilion only; and

WHEREAS, by letter dated September 20, 2016, the Developer submits that they have complied with all requirements for the 3rd Avenue Pavilion as required by SDA Section 4.06(b) and requests that the City issue a Certificate of Completion for the 3rd Avenue Pavilion per SDA Section 4.16(b),

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asbury Park, acting as the City’s Redevelopment Entity, (the “**Council**”) that:

1. The Council finds that the Developer has satisfactorily completed the required work to the 3rd Avenue Pavilion under the terms of the SDA.
2. The Council authorizes the City Manager, in consultation with redevelopment counsel, execute and deliver a Certificate of Completion for the 3rd Avenue Pavilion substantially in the form as it has been presented to the City Council, and attached hereto as **EXHIBIT A**, subject to additions, deletions, modifications or revisions deemed necessary and appropriate in consultation with counsel.
3. The Council also authorizes and directs the City Manager, redevelopment counsel, and all necessary City officials, employees and professionals to execute and deliver such documents as are necessary to facilitate the transactions contemplated hereby, and to take such actions or refrain from such actions as are

necessary to facilitate the transactions contemplated hereby, in consultation with, redevelopment counsel, and any and all actions taken heretofore with respect to the transactions contemplated hereby are hereby ratified and confirmed.

4. This Resolution shall take effect immediately.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-243 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS 13th DAY OF October, 2016.

CINDY A. DYE
CITY CLERK

Record and Return to:

Karl P. Kemm, Esq.
 McManimon, Scotland & Baumann, L.L.C.
 75 Livingston Avenue, 2nd Floor
 Roseland, New Jersey 07068

Prepared by:

 Karl P. Kemm, Esq.

CERTIFICATE OF COMPLETION
Block 4502, Lot 1.10, City of Asbury Park (the “Property”)
(Record in Mortgage Book)

This Certificate of Completion (this “Certificate”) is made this ____ day of October, 2016 by the **CITY OF ASBURY PARK** (the “City”), a public body corporate and politic of the State of New Jersey having its offices at 1 Municipal Plaza, Asbury Park, New Jersey 07712, in its capacity as redevelopment entity pursuant to *N.J.S.A. 40A: 12A-4(c)*.

W I T N E S S E T H

WHEREAS, the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.* (as amended and supplemented, the “Act”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, the Council of the City (“Council”) adopted a resolution determining that the Waterfront Redevelopment Area constitutes an “area in need of redevelopment” pursuant to the provisions of the Act; and

WHEREAS, on November 7, 1984, the City Council adopted a redevelopment plan for the Waterfront Redevelopment Area (as amended to date and as may hereafter be amended, the “Waterfront Redevelopment Plan”) in accordance with *N.J.S.A. 40A:12A-7* of the Act; and

WHEREAS, in furtherance of the Waterfront Redevelopment Plan, the City and Asbury Partners, L.L.C. (“Partners”), a limited liability company formed under the laws of the State of New Jersey with offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712, entered into the Amended and Restated Redeveloper and Land Disposition Agreement dated October 28, 2002 (as amended to date and as may hereafter be amended, the “Redeveloper Agreement”) pursuant to which Partners was appointed “Master Developer” for the Waterfront Redevelopment Area; and

WHEREAS, the Redeveloper Agreement provides, among other things, for the construction, renovation and/or reconstruction of what is commonly known as the 3rd Avenue Pavilion, Block 4502, Lot 1.10 (formerly Block 227, Lot 1.10) and defined above as the “Property” in accordance with the requirements of the Waterfront Redevelopment Plan (the “Retail Project”); and

WHEREAS, pursuant to the Redeveloper Agreement, in order to implement the development, financing, construction, operation and management of the Retail Project, the City

Attachment: Certificate of Completion - MAR 3rd Ave Pavilion (2016-243 : Completion of Third Ave. Pavilion)

entered into a Subsequent Developer Agreement dated June 1, 2010 (the “**Subsequent Developer Agreement**”) with Partners and Madison Asbury Retail, LLC, a limited liability company formed under the laws of the State of Delaware, with principal offices located at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 (“**MA Retail**”); and

WHEREAS, in accordance with N.J.S.A. 40A:12A-(9)(a) of the Act, the Subsequent Developer Agreement, and now this Certificate, includes a covenant running with the Property requiring, among other things, that “. . . only the uses established in the current redevelopment plan . . .” are to be constructed on the Property,

NOW THEREFORE, IT IS HEREBY CERTIFIED by the undersigned as follows:

Section 1. Defined terms not otherwise defined herein shall have the respective meanings ascribed to such terms in the Subsequent Developer Agreement.

Section 2. In accordance with Section 4.16 of the Subsequent Developer Agreement, the City hereby acknowledges and agrees that (a) the Retail Project in its entirety has been completed in accordance with the Redeveloper Agreement, the Waterfront Redevelopment Plan, the Subsequent Developer Agreement and in compliance with Applicable Laws, as further evidenced by the Certificate(s) of Occupancy, attached hereto as Exhibit A, issued with respect to the building(s) located within the Retail Project, (b) MA Retail has performed all of its duties and obligations under the Subsequent Developer Agreement with respect to the Retail Project, (c) the Retail Project is being used and operated in accordance with the terms and provisions of the Redeveloper Agreement, the Waterfront Redevelopment Plan, the Subsequent Developer Agreement and Applicable Laws, (d) this Certificate shall constitute a conclusive determination of (i) the satisfaction and termination of the agreements and covenants in the Subsequent Developer Agreement, the Redeveloper Agreement and the Waterfront Redevelopment Plan with respect to the obligations of MA Retail to construct the Retail Project within the dates (if any) for completion of same, and (ii) the termination of the Subsequent Developer Agreement as applicable to the Retail Project, except for those matters which by the terms of the Subsequent Developer Agreement and Redeveloper Agreement are intended to, or by the operation of Applicable Laws are required to, survive such termination.

Section 3. Upon issuance of this Certificate for the Retail Project, the conditions that were found and determined to exist on the 3rd Avenue Pavilion on which the Retail Project is located at the time the 3rd Avenue Pavilion was determined to be an area in need of redevelopment shall be deemed to no longer exist and the 3rd Avenue Pavilion and the improvements located thereon shall no longer be subject to eminent domain as a result of those determinations, and all restrictions on transfers and encumbrances as set forth in the Subsequent Developer Agreement shall terminate.

Section 4. Pursuant to Section 3.05 of the Subsequent Developer Agreement, MA Retail shall (i) comply with the applicable provisions and public purposes of the Act and shall at all times construct and develop the Retail Project or cause the Retail Project to be constructed and developed pursuant to the conditions and requirements of the Waterfront Redevelopment Plan, including, but not limited to, those provisions restricting the permitted uses established therein, (ii) maintain in good condition any landscaping required to be planted on the 3rd Avenue Pavilion

pursuant to the Final Site Plans for the Retail Projects, and (iii) in connection with its use or occupancy of the Retail Project, not effect or execute any covenant, agreement, lease, conveyance or other instrument whereby the Retail Project or any building or structure erected or to be erected thereon is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sex, sexual orientation, or familial status, and MA Retail, its successors and assigns, shall comply with all Applicable Laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sex, sexual orientation, or familial status. All of the covenants, agreements, conditions and restrictions set forth in this paragraph are intended to be, and shall be construed as, covenants running with the land, binding upon MA Retail and MA Retail's successors and assigns.

Section 5. This Certificate is given without prejudice to any rights against third parties which exist on the date hereof or which may subsequently come into being.

IN WITNESS WHEREOF, the undersigned has caused this Certificate for the Retail Project to be executed as of the date first written above.

ATTEST:

CITY OF ASBURY PARK

By: _____
Cindy Dye,
City Clerk

By: _____
Michael Capabianco,
City Manager

STATE OF NEW JERSEY :

SS:

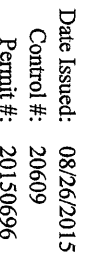
COUNTY OF MONMOUTH:

BE IT REMEMBERED, that on this _____ day of October, 2016 before me, the subscriber, a Notary Public of New Jersey, personally appeared Michael Capabianco, who, being by me duly sworn on her oath, deposes and makes proof to my satisfaction that he/she is the City Manager of the CITY OF ASBURY PARK, NEW JERSEY, the entity named in the within Instrument, who I am satisfied is the person who executed the foregoing Instrument; that the execution, as well as the making of the Instrument, have been duly authorized by Resolution 2016-___ of the City of Asbury Park and said Instrument was signed and delivered by said City Manager Michael Capabianco as and for the voluntary act and deed of said entity.

Karl P. Kemm, Esq.
Attorney at Law in the
State of New Jersey

EXHIBIT A
Certificate(s) of Occupancy

Attachment: Certificate of Completion - MAR 3rd Ave Pavilion (2016-243 : Completion of Third Ave. Pavilion)



Collected by: MZ

MADISON ASBURY RETAIL, LLC

1100 Ocean Avenue
Asbury Park, NJ 07712
(732) 897-6500

HAND DELIVERY & ELECTRONIC MAIL

September 20, 2016

Michele Alonso, AICP, PP
Director of Planning and Redevelopment
City of Asbury
One Municipal Plaza
Asbury Park, NJ 07712

RE: Third Avenue Pavilion-Request for Certificate of Completion

Dear Ms. Alonso,

Per Section 4.16 of the Subsequent Developer Agreement (SDA) among the City of Asbury Park, Madison Asbury Retail, LLC (MAR), and Asbury Partners, LLC, MAR is seeking a Certificate of Completion for the Third Avenue Pavilion Retail Project.

The following items have been performed substantially in accordance with the SDA and February 4, 2008 Planning Board approval for the building (Exhibit A):

- MAR entered into the appropriate Redeveloper's Agreement (the SDA) with the City in June 2010;
- MAR has kept taxes, fees and escrow accounts current;
- The City Fire Official and Construction Department have determined capacity of the building;
- MAR has complied with all CAFRA regulations applicable to the Pavilion; see attached Compliance Letter dated September 13, 2016 (Exhibit B);
- MAR discussed screening of utility and gas meters and material and color finishes with the Design Review Sub-Committee;
- MAR received approval for encroachments into the City's right-of-way/easements via the SDA (Easement Encroachment Agreement/Boardwalk Walkway Easements- Exhibit F of SDA);
- The January 22, 2008 Memo by City Engineer Brian Grant referenced in the February 4, 2008 resolution was unable to be located by City or MAR staff;
- The public utility interconnections within the basement of the building serving the beach area have not been altered;
- A variance was granted by Planning Board for the Pavilion signage on July 13, 2009.
- MAR initially created a trash room in the Pavilion for restaurant tenant utilization, however, as part of the interior rebuild after Hurricane Sandy, the trash room was eliminated. An exterior trash enclosure was subsequently constructed (approved by Planning Board on August 11, 2014- See below). The restaurant tenants of the building have always contracted directly for trash and recycling removal while the trash and recycling of the non-restaurant tenants is serviced by MAR staff.

Subsequent to the February 2008 approval, MAR received approval from the Planning Board for the following revisions to the original site plan application:

- Revised Site Plan for the addition of large, glazed operable doors on boardwalk storefront in three bays; heard at the March 18, 2013 meeting (Exhibit C):
 - Doors were installed in accordance with plans.
- Revised Site Plan to install roof top planters, an exterior trash enclosure and signage; heard at the August 11, 2014 meeting (Exhibit D):
 - Installation of planters was done in accordance with plans;
 - The voids not filled by planters have been filled by railings that match existing rooftop railings;
 - The sign is built in accordance with plans, contains no words, is neon and static;
 - Tenant has removed excess interior neon and paper signage, as well as exterior banner signage on railings and windows, to the satisfaction of the Zoning Officer.
- Revised Site Plan to remove a condition of approval designating the property as temporary; heard at the September 28, 2015 meeting (Exhibit E).

MAR has received both a final Certificate of Zoning Appropriateness (Exhibit F), and a Certificate of Occupancy for the entire Pavilion (Exhibit G), conclusive evidence of the completion of the building in accordance with plans as approved by the above listed Planning Board resolutions.

We are eager to receive a Certificate of Completion for the Third Avenue Pavilion and we look forward to your response to this request. If you have any questions, please do not hesitate to contact me at (732) 897-6507 or cturner@mmrs.com.

Sincerely,



Carrie Turner
General Manager

Cc: Peter Tomai, Madison Marquette, *via email*
Anselm Fusco, Madison Marquette, *via email*
Kevin Patterson, Madison Marquette, *via email*
Michael Capabianco, City of Asbury Park, *via email*
Karl Kemm, McManimon, Scotland, Bauman, *via email*

EXHIBIT A

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion_9-20-16 (2016-243 : Completion of Third Ave. Pavilion)

RESOLUTION APPROVING THE PRELIMINARY AND FINAL SITE
PLAN APPLICATION OF MADISON ASBURY RETAIL, LLC
BLOCK 227, LOT 1.10

WHEREAS, the applicant Madison Asbury Retail, LLC, hereinafter referred to as the applicant is the owner of property commonly known as the Third Avenue Pavilion on the boardwalk in the City of Asbury Park, which property is located in the Waterfront Redevelopment Area Zone, hereinafter referred to as the WRA; and

WHEREAS, the applicant has applied for Preliminary and Final Site Plan approval for the renovation of the existing pavilion structure and site at the above stated address for various uses which are set forth in detail in the site plan application and testimony submitted on behalf of the applicant at the public meeting held by the Planning Board on February 4, 2008. The application, site and architectural plans and testimony submitted into evidence are incorporated herein by reference thereto; and

WHEREAS, the proposed uses are permitted in the WRA Zone and all jurisdictional requirements have been met and proper notice has been given pursuant to the Municipal Land Use Law and City Ordinances, and the Board has jurisdiction to consider this application; and

WHEREAS, the Board considered this application at a public hearing held on February 4, 2008; and

WHEREAS, the Board after considering the evidence and testimony presented on behalf of the applicant and the comments of interested citizens has made the following findings of fact and conclusions based thereon:

1. The property is located in the Waterfront Redevelopment Area Zone, which permits the contemplated uses at the premises.
2. The plans for the project submitted by the applicant have received the necessary approvals of the WRA Technical Review Committee and the Mayor and Council of the City of Asbury Park acting in their capacity as the City Redevelopment Agency.
3. The applicant agreed to accept Board imposed conditions which are hereinafter set forth; and

WHEREAS, the Board determined that the relief requested by the applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinances of the City of Asbury Park and will be in compliance with the waterfront redevelopment plan; and

WHEREAS, the Board after considering the testimony and exhibits has found the proposed site plan to be in substantial compliance with the Site Plan ordinance and aforementioned ordinances subject to compliance with Board imposed conditions.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the City of Asbury Park that the application for preliminary and final site plan approval of Madison Asbury Retail, LLC for Block 227, Lot 1.10 is hereby approved contingent upon the applicant complying with the following conditions;

1. All testimony, evidence and representations made on behalf of the applicant by its witnesses at the public meeting of the Board are incorporated herein.
2. The applicant agrees to comply with all of the outstanding conditions of any of the prior approvals granted in connection with this pavilion that remain relevant to the proposed improvements to the property and have not been superseded or supplemented by the current application.
3. The applicant agrees to enter into a Redeveloper's Agreement with the City for this project on terms and conditions acceptable to the City in its capacity as Redevelopment Entity and does further agree to post performance bonds or other liquid security, inspection fees and escrows as determined by the City Council in their capacity as Redevelopment Entity and/or the City Engineer Brian Grant and Board Secretary.
4. The applicant agrees to comply with all of the outstanding conditions set forth in the reports of the City Fire Department, City Engineer and the Board Planners for this project, which are annexed hereto and made a part hereof.
5. Taxes, fees and escrow accounts shall be current.
6. The applicant will adhere to the findings of fact set forth above.
7. Capacity of the facility shall be determined by the City Fire Official and Building Department.
8. The applicant will pay the appropriate sewer connection fees as determined by the City Engineer if applicable to this site.
9. Compliance with all CAFRA regulations applicable to the Pavilion.
10. If this project requires the approval of any other governmental agency, this approval is contingent thereon. Furthermore, if any outside agency approves this project subject to the applicant changing or amending the plans approved by this Board the applicant must appear before this Board for an amendment to the approved plans.
11. The applicant agrees to comply with the additional conditions of approval set forth in Exhibit A annexed hereto and made a part hereof.
12. Approval of the Design Review Subcommittee of the proposed screening of the utilities, and gas meters.
13. The approval of the Mayor and Council for encroachments if any into the City's right-of-way/easements for any proposed improvements.

14. Submission and approval by the Design Review Subcommittee of a material and color finish sample board as well as proposed exterior signage for all uses in the pavilion.
15. Compliance with the outstanding conditions and recommendations set forth in the memo for the project prepared by City Engineer Brian Grant dated January 22, 2008, which is annexed hereto and made a part hereof.
16. Construction in accordance with the revised plans submitted on February 4, 2008.
17. Temporary Interim two (2) year approval with two yearly extensions commencing two years from February 4, 2008.
18. Subject to review and approval of the Mayor and City Council acting in their capacity as the City Redevelopment Entity.
19. The project site currently houses an interconnection for public utilities servicing the beach area. All renovations shall preserve such interconnections or replace the same on terms and conditions acceptable to the City in its role as Redevelopment Entity.
20. Exterior signage shall be in accordance with the City's sign ordinance.
21. All trash and recyclables generated from the proposed uses at the pavilion must be separated and stored in proper containers in well ventilated and maintained area, in accordance with City code and health standards. The City provides twice a week curbside trash pick up. If the foregoing City service intervals are not adequate to meet the needs of the tenants in the pavilion in order to prevent unsanitary conditions, the property owner shall be responsible for providing more frequent trash pick ups. The property shall be responsible for removing recyclables at their own cost and expense.

A Motion to approve the application subject to compliance with the foregoing conditions was offered by Rev. Parreott and seconded by Terence Reidy.

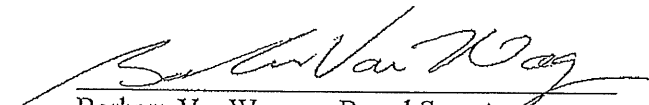
The members of the Board who may vote to adopt this Resolution of memorialization are those members who voted in favor of the motion to approve the application.

Ayes: Troy, Parreott, Reidy, Towery, Fehrenbach, Loffredo, DiBenedetto

Nays:

Abstain:

February 4, 2008.


Barbara VanWagner, Board Secretary

I certify this to be a true copy of a Resolution adopted by the City of Asbury Park Planning Board on February 4, 2008.

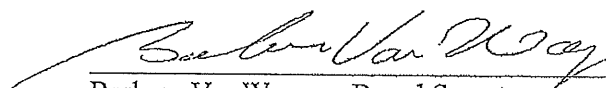

Barbara VanWagner, Board Secretary

EXHIBIT B

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion_9-20-16 (2016-243 : Completion of Third Ave. Pavilion)



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Land Use Regulation

Mail Code 501-02A

P.O. Box 420

Trenton, New Jersey 08625-0420

www.nj.gov/dep/landuse

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

SEP 13 2016

Robert J. Curley, PE, PP
Maser Consulting P.A.
331 Newman Springs Road
Suite 203
Red Bank, NJ 07701

RE: **Asbury Park Waterfront Redevelopment Plan - CAFRA Individual Permit Condition Compliance**

DLUR File #1303-03-0001.2, CAF030001

Project: 3rd Avenue Pavilion

Block 4502 (227), Lot 1.25

City of Asbury Park, Monmouth County

Dear Mr. Curley:

This letter is in response to your September 8, 2015 request for the Division of Land Use Regulation (Division) to evaluate the 3rd Avenue Pavilion on the above-referenced parcel for compliance with the above-referenced CAFRA permit, which was issued on March 26, 2004.

Based upon our review of the information submitted, the Division has determined that the 3rd Avenue Pavilion is in compliance with the previously issued CAFRA permit. The project is shown on two plan sheets entitled,

"BOUNDARY AND TOPOGRAPHIC SURVEY FOR ASBURY PARK REDEVELOPMENT PROJECT, BLOCK 4502, LOT 1.10, CITY OF ASBURY PARK, MONMOUTH COUNTY, NEW JERSEY," dated March 25, 2015, last revised on August 19, 2015, and prepared by Maser Consulting, P.A.

"3RD AVE PAVILION PLANS, MADISON ASBURY RETAIL, ASBURY PARK, NJ," dated August 13, 2015, unrevised, and prepared by SPG3.

- a. "FIRST & SECOND FLOOR ROOF," Sheet A.101
- b. "BASEMENT," Sheet A.102

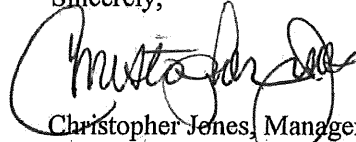
This letter is issued subject to compliance with all applicable conditions of CAFRA permit #1303-03-0001.2, CAF030001, and subsequent CAFRA permit modification #1303-03-0001.2,

Asbury Park – 3rd Ave Pavilion

Page 2

CAF050001. If you have any questions regarding this letter, please contact Becky Mazzei of our staff at Becky.Mazzei@dep.nj.gov, or at 609-984-6216.

Sincerely,



Christopher Jones, Manager
Bureau of Urban Growth & Redevelopment

Cc: City of Asbury Park Construction Official

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion_9-20-16 (2016-243 : Completion of Third Ave. Pavilion)

EXHIBIT C

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion_9-20-16 (2016-243 : Completion of Third Ave. Pavilion)

RESOLUTION APPROVING AN AMENDMENT TO THE PRELIMINARY
AND FINAL SITE PLAN APPLICATION OF MADISON ASBURY RETAIL,
LLC, FOR BLOCK 4502, LOT 1.10, 1000 OCEAN AVENUE, COMMONLY
REFERRED TO AS THE THIRD AVENUE PAVILION

WHEREAS, Madison Asbury Retail, LLC, hereinafter referred to as the applicant is the owner of the above referenced property known as 1000 Ocean Avenue (a/k/a Third Avenue Pavilion) in the City of Asbury Park, which property is located in the Waterfront Redevelopment Area Zone, hereinafter referred to as the WRA Zone or District; and

WHEREAS, the applicant has previously been granted Preliminary and Final Major Site Plan approval and design waivers for the renovation of the existing structure at the above stated location. The application and site plans submitted into evidence at the preliminary and final site plan hearing contain all of the details of the improvements proposed for the property and are incorporated herein by reference thereto; and

WHEREAS, all jurisdictional requirements have been previously met and proper notice had been given pursuant to the Municipal Land Use Act and City Ordinances, and the Board had jurisdiction to consider this application; and

WHEREAS, the applicant seeks an amendment to the previously approved site plan application in order to add aluminum doors to the façade on the east side of the pavilion for storm protection and security; and

WHEREAS, the applicant's witness Anselm Fusco, testified that proposed doors on the east side are necessary due to the post hurricane Sandy requirements of the insurance industry. He further testified that the proposed doors will be similar to the current doors on the storefronts of the pavilion; and

WHEREAS, the Board accepts the testimony of the witness as factual and agrees that the proposed doors are necessary in the post Sandy coastal conditions.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the City of Asbury Park that the proposed amendment to the original site plan approval is hereby granted so long as the applicant continues to comply with the other conditions imposed as part of the prior site plan approval for this project and the applicant complies with the conditions of this approval set forth below.

1. All outstanding and continuing conditions attached to any prior approvals or amendments granted by this Board not modified herein must be complied with.
2. The installation of the proposed doors must comply with all applicable building and construction codes.

3. If the proposed garage doors (2), do not work, the applicant will install 2 operable doors with fixed panels in the center of each door.

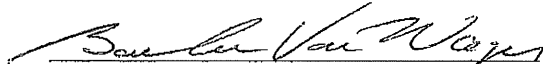
A Motion to approve the foregoing action of the Board was offered by Seressa Grillo, which motion was duly seconded by City Manager, Terence Reidy.

The members of the Board who may vote to adopt this Resolution of memorialization are those members who voted in favor of the motion to approve the application.

Ayes: *T. Reidy, S.A. Tower, N. Fahrenbach, J. Henry, R. Feinstein*

Nays:

May 29, 2013 .


Barbara VanWagner, Board Secretary

I certify this to be a true copy of a Resolution adopted by the City of Asbury Park Planning Board on May 29, 2013.

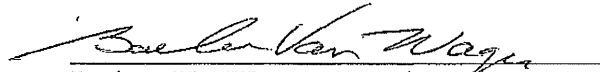

Barbara VanWagner, Board Secretary

EXHIBIT D

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion_9-20-16 (2016-243 : Completion of Third Ave. Pavilion)

RESOLUTION APPROVING AN AMENDMENT TO THE PRELIMINARY
AND FINAL SITE PLAN APPLICATION OF MADISON ASBURY RETAIL,
LLC, FOR BLOCK 4502, LOT 1.10, 1000 OCEAN AVENUE, COMMONLY
REFERRED TO AS THE THIRD AVENUE PAVILION

WHEREAS, Madison Asbury Retail, LLC, hereinafter referred to as the applicant is the owner of the above referenced property known as 1000 Ocean Avenue (a/k/a Third Avenue Pavilion) in the City of Asbury Park, which property is located in the Waterfront Redevelopment Area Zone, hereinafter referred to as the WRA Zone or District; and

WHEREAS, the applicant has previously been granted Preliminary and Final Major Site Plan approval and design waivers for the renovation of the existing structure at the above stated location and amendments thereto. The application and site plans submitted into evidence at the preliminary and final site plan hearing contain all of the details of the improvements proposed for the property and are incorporated herein by reference thereto along with the plans, maps and testimony in support of the amendments granted to the applicant; and

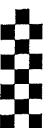
WHEREAS, all jurisdictional requirements have been previously met and proper notice had been given pursuant to the Municipal Land Use Act and City Ordinances, and the Board had jurisdiction to consider this application; and

WHEREAS, the applicant seeks an amendment to the previously approved site plan application as previously amended in order to install new rooftop planters and a new trash receptacle enclosure and the installation of a wall mounted sign that the Board considered on a separate basis and vote. The details outlining the foregoing are set forth on the plans submitted into evidence and testimony in support of the application; and

WHEREAS, the applicant's witnesses Anselm Fusco on the details of the proposed rooftop planters and sign. Carrie Fisher, testified on the details of the proposed enclosure of the trash receptacle room on the Ocean Avenue side of the subject property and the storage of the recyclables at the site; and

WHEREAS, the Board accepts the testimony of the witness as factual and voted in favor of the rooftop planters and the trash enclosure with conditions hereinafter set forth. The Board considered the new sign installation by a separate vote.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the City of Asbury Park that the proposed amendment to install rooftop planters and a trash room enclosure are hereby granted so long as the applicant continues to comply with the other conditions imposed as part of the prior site plan approval and amendment(s) for this project and the applicant complies with the conditions of this approval set forth below.



1. All outstanding and continuing conditions attached to any prior approvals or amendments granted by this Board not modified herein must be complied with.
2. The installation of the proposed planters must be in accordance with the plans (Exhibit A-1) and testimony submitted into evidence at the hearing held on August 11, 2014, and compliance with the conditions of this approval.
3. The planters must be planted with "lower beach grass".
4. The planters must be located in the areas depicted on Exhibit A. The northeast and south east corners must have symmetrical planters installed as depicted on Exhibit A and the remaining voids will have new railings installed that match the existing railings.
5. The trash and recycle bins must be put out on collection days and returned immediately after "pick-up".

A Motion to approve the foregoing action of the Board was offered by Sara Anne Towery, which motion was seconded by Councilman, John Moor.

The members of the Board who may vote to adopt this Resolution of memorialization are those members who voted in favor of the motion to approve the application.

Ayes:

Michelle Penillo, John Moor, & Jim Henry Barbara Wagner

Nays:

September 22, 2014.

Barbara Van Wagner
Barbara VanWagner, Board Secretary

I certify this to be a true copy of a Resolution adopted by the City of Asbury Park Planning Board on September 22, 2014.

Barbara Van Wagner
Barbara VanWagner, Board Secretary

RESOLUTION APPROVING AN AMENDMENT TO THE PRELIMINARY
AND FINAL SITE PLAN APPLICATION OF MADISON ASBURY RETAIL,
LLC, FOR BLOCK 4502, LOT 1.10, 1000 OCEAN AVENUE, COMMONLY
REFERRED TO AS THE THIRD AVENUE PAVILION

WHEREAS, Madison Asbury Retail, LLC, hereinafter referred to as the applicant is the owner of the above referenced property known as 1000 Ocean Avenue (a/k/a Third Avenue Pavilion) in the City of Asbury Park, which property is located in the Waterfront Redevelopment Area Zone, hereinafter referred to as the WRA Zone or District; and

WHEREAS, the applicant has previously been granted Preliminary and Final Major Site Plan approval and design waivers for the renovation of the existing structure at the above stated location and amendments thereto. The application and site plans submitted into evidence at the preliminary and final site plan hearing contain all of the details of the improvements proposed for the property and are incorporated herein by reference thereto along with the plans, maps and testimony in support of the amendments granted to the applicant; and

WHEREAS, all jurisdictional requirements have been previously met and proper notice had been given pursuant to the Municipal Land Use Act and City Ordinances, and the Board had jurisdiction to consider this application; and

WHEREAS, the applicant seeks an amendment to the previously approved site plan application as previously amended in order to install new rooftop planters and a new trash receptacle enclosure, both of which have been addressed in a separate resolution heretofore adopted by this Board and the installation of a wall mounted sign that the Board considered on a separate basis and vote. The details outlining the foregoing are set forth on the plans submitted into evidence and testimony in support of the application; and

WHEREAS, the applicant's witnesses Anselm Fusco on the details of the proposed rooftop planters and sign. Carrie Fisher, testified on the details of the proposed enclosure of the trash receptacle room on the Ocean Avenue side of the subject property and the storage of the recyclables at the site; and

WHEREAS, the Board accepts the testimony of the witness as factual and voted in favor of the new sign installation with conditions hereinafter set forth. The Board considered the new planters and trash room enclosure by a separate vote.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the City of Asbury Park that the proposed amendment to install the wall mounted sign as depicted on Exhibit A-2 in evidence is hereby granted so long as the applicant continues to comply with the other conditions imposed as part of the prior site plan approval and

amendment(s) for this project and the applicant complies with the conditions of this approval set forth below.

1. All outstanding and continuing conditions attached to any prior approvals or amendments granted by this Board not modified herein must be complied with.
2. The installation of the wall mounted sign at the northwest corner of the building must be in accordance with the plans (Exhibit A-2) and testimony submitted into evidence at the hearing held on August 11, 2014, and compliance with the conditions of this approval
3. The sign or sculpture will not contain any wording.
4. The sign must be located on the west side of the northwest corner of the building as shown on Exhibit A-2.
5. The sign shall be "channel lit" and be neon and "static". No blinking, flashing or movement of any type is permitted.
6. The sign collage previously approved by this Board is hereby rescinded or superseded by this approval. Additionally, all paper or any signs or banners (painted or other medium) presently affixed to any windows (both inside and outside), or the railings or the exterior walls of the structure must be removed immediately and not reinstalled at any time in the future.
7. The sign or sculpture will be removed when the present tenant vacates the premises.
8. The depth of the sign shall be approximately 4" and shall be mounted flat to the exterior structure wall. No "standoffs" shall be used and visible conduits are not permitted.
9. The northeast and southeast corners of the rooftop will have symmetrical planters installed as depicted on the Exhibits entered into evidence at the hearing and the remaining voids will have new railings installed that match the existing railings.

A Motion to approve the foregoing action of the Board was offered by Sara Anne Towery, which motion was seconded by Chairman, Herbert Fehrenbach.

The members of the Board who may vote to adopt this Resolution of memorialization are those members who voted in favor of the motion to approve the application. Councilman John Moor voted against the motion to approve the sign installation.

Ayes:

Jim Dwyer, Barbara Wagner, Anthony Perillo, Heidi F.

Nays:

September 22, 2014.

Barbara VanWagner
Barbara VanWagner, Board Secretary

I certify this to be a true copy of a Resolution adopted by the City of Asbury Park Planning Board on September 22, 2014.

Barbara VanWagner
Barbara VanWagner, Board Secretary

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion_9-20-16 (2016-243 : Completion of Third Ave. Pavilion)

EXHIBIT E

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion_9-20-16 (2016-243 : Completion of Third Ave. Pavilion)

RESOLUTION APPROVING AN AMENDMENT TO THE TEMPORARY,
PRELIMINARY AND FINAL SITE PLAN APPROVAL OF MADISON
ASBURY RETAIL, LLC, FOR BLOCK 4502, LOT 1.10, 1000 OCEAN
AVENUE, COMMONLY REFERRED TO AS THE THIRD AVENUE
PAVILION, OMITTING THE CONDITION GRANTING TEMPORARY
APPROVAL

WHEREAS, Madison Asbury Retail, LLC, hereinafter referred to as the applicant is the owner of the above referenced property known as 1000 Ocean Avenue (a/k/a Third Avenue Pavilion) in the City of Asbury Park, which property is located in the Waterfront Redevelopment Area Zone, hereinafter referred to as the WRA Zone or District; and

WHEREAS, the applicant has previously been granted Temporary Preliminary and Final Major Site Plan approval and design waivers for the renovation of the existing structure at the above stated location and amendments thereto. The application and site plans submitted into evidence at the preliminary and final site plan hearing contain all of the details of the improvements proposed for the property and are incorporated herein by reference thereto along with the plans, maps and testimony in support of the amendments granted to the applicant; and

WHEREAS, all jurisdictional requirements have been previously met and proper notice had been given pursuant to the Municipal Land Use Act and City Ordinances, and the Board had jurisdiction to consider this application; and

WHEREAS, the applicant seeks an amendment to the original temporary preliminary and final site plan approval granted to the applicant on February 4, 2008, omitting condition 17 which states:

17. Temporary Interim two (2) year approval with two yearly extensions Commencing two years from February 4, 2008.; and

WHEREAS, this proposed amendment was presented to this Board by the applicant on September 28, 2015 after proper notices had been given by the applicant pursuant to the requirements of the MLUL; and

WHEREAS, the applicant's witness Carrie Turner, and Legal Counsel, Matt Kalwinsky stated that the reason for the temporary approval was due to the fact that the applicant thought that the structure was going to be razed due to major structural deficiencies. It has now been determined that the structure does not need to be razed and applicant wants to keep the existing structure in place; and

WHEREAS, the Board accepts the testimony of the witness and the representations of Counsel as factual and finds that the approval can be made permanent so long as the applicant complies with the continuing and outstanding conditions of the prior approvals for this pavilion.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the City of Asbury Park that the proposed amendment to omit condition #17 from the initial approvals granted to the applicant as stated above is hereby granted so long as the applicant continues to comply with the continuing and outstanding conditions of all approvals heretofore granted to the applicant for this pavilion and the applicant complies with the conditions of this approval set forth below.

1. All outstanding and continuing conditions attached to any prior approvals or amendments granted by this Board not modified herein must be complied with in full.
2. The applicant shall remove the unauthorized signage at the subject premises.

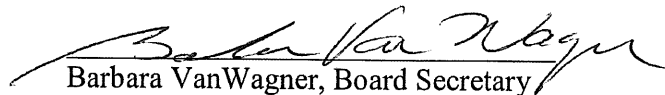
A Motion to approve the foregoing action of the Board was offered by Sara Anne Towery, which motion was seconded by Jim Henry.

The members of the Board who may vote to adopt this Resolution of memorialization are those members who voted in favor of the motion to approve the application. They are: Sara Anne Towery, Jim Henry, Barbara Krzak, Herbert Fehrenbach, Trudy Syphax, Seressa Grillo and Anthony Perillo.

Ayes: *S.A. Towery, J. Henry, H. Fehrenbach, T. Syphax, S. Grillo, A. Perillo*

Nays:

October 6, 2015.


Barbara VanWagner, Board Secretary

I certify this to be a true copy of a Resolution adopted by the City of Asbury Park Planning Board on October 6, 2015.

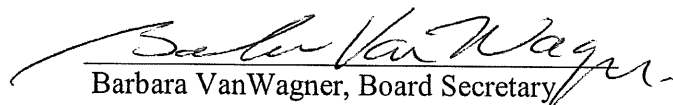

Barbara VanWagner, Board Secretary

EXHIBIT F

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion_9-20-16 (2016-243 : Completion of Third Ave. Pavilion)

Nº 4256



City of Asbury Park

CERTIFICATE OF ZONING COMPLIANCE

Address: 1000 Ocean Block 4502 Lot 1-10
 Applicant: Madesin Asbury Petal Owner/Agent: _____
 Zoning District: WRA

This is to certify that the above describes premises together with any building thereon, are used or proposed to be used as or for:

Third Avenue Pavilion
Retail Pavilion

which is a:

☒ Use permitted by Ordinance

☐ Use permitted by variance approved on subject to any special conditions attached to the grant thereof.

☐ Valid nonconforming use as established by ☐ finding of the Zoning Board of Adjustment, or ☐ by the undersigned zoning officer of the basis of evidence supplied by applicant as specified on the reverse hereof. Also specified on the reverse hereof is a detailed statement of all aspects of nonconforming use.

☐ There is a nonconforming structure on the premises by reason of insufficient ☐ set-back, ☐ side yard, ☐ rear yard, ☐ other (specify)

9-15-15

Date

[Signature]
 Zoning Officer

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion 9-20-16 (2016-243 : Completion of Third Ave. Pavilion)



City of Asbury Park

ZONING DEPARTMENT

MUNICIPAL BUILDING • ONE MUNICIPAL PLAZA

ASBURY PARK, NEW JERSEY 07712-7000

TEL: (732) 502-5724

FAX: (732) 502-5738

ANDRÉ R. WILLIS, SR.
ZONING OFFICER

APPLICATION FOR CERTIFICATE OF

ZONING COMPLIANCE

DATE SUBMITTED: 8-26-15

Property Address: 1000 Ocean Ave (3rd Ave Pavilion)
Block: 4502 Lot: 1.10 Zone: WRA
Owner: MADISON ASBURY RETAIL, LLC

Applicant: MADISON ASBURY RETAIL, LLC
Address: 1100 Ocean Ave
Asbury Park, NJ 07712 Contact # 908-670-3375
Carrie Turner-cell

Previous Use: Retail Pavilion
Proposed Use: Retail Pavilion

Zoning Permit Required () Yes () No Date Issued _____
Inspection Required () Yes () No Date Completed _____

Comments:
Requesting Zoning Compliance for Certificate of Completion
per the Subsequent Developer Agreement (SDA) with the
City of Asbury Park. Attached are As-Built Architectural Drawings.

The fee for this Compliance is \$20.00 Date paid: 8/25/15 Check # 22973901120
Received by: [Signature]

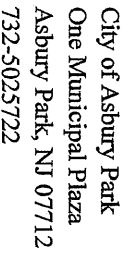
I acknowledge that the Certificate of Zoning Compliance is based solely on the information presented to the Zoning officer on this application. I further acknowledge that if the information is incomplete or misleading the Certificate may be revoked and I will be subject to possible penalties for violation of the Land Development Ordinance.

Signature of applicant: [Signature] Date: 8/26/15

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion 9-20-16 (2016-243 : Completion of Third Ave. Pavilion)

EXHIBIT G

Attachment: Ltr to Michele Alonso re 3rd Avenue Pavilion Cert of Completion_9-20-16 (2016-243 : Completion of Third Ave. Pavilion)



Date Issued: 08/26/2015
Control #: 20609
Permit #: 20150696

Work Site Location: 1000 OCEAN AVE (THIRD AVE PAVILION)

Owner in Fee: MADISON ASBURY RETAIL, LLC

Address: 1100 OCEAN AVENUE

ASBURY PARK NJ 07712

Telephone: 732 897-6500

Agent/Contractor: MADISON ASBURY RETAIL, LLC

Address: 1100 OCEAN AVENUE

ASBURY PARK NJ 07712

Telephone: 732 897-6500

Lic. No./ Bldrs. Reg.No.: _____

Social Security No.:

[X] **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of inspection.

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

Date Issued: 08/26/2015
Control #: 20609
Permit #: 20150696

Type of Warranty Plan:

[] State [] Private
B

1

Construction Classification:
Maximum Occupancy Load:

Certificate Exp Date:

Description of Work/Use:

CO PURPOSES ONLY - THIRD AVENUE PAVILION

Update Desc. of WK/Use:

[] **CERTIFICATE OF CLEARANCE-LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[] Total removal of lead-based paint hazards in scope of work

Partial or limited time period(____ years); see file

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until

Fees: \$250.00

George W. Selah Construction Official

U.C.C. 260 (rev. 5/03)

1 - APPLICANT 2 - OFFICE 3 - TAX ASSESSOR

Paid [X] Check No.: 006670

Collected by: MZ



RESOLUTION NO. 2016-245

**City of Asbury Park
County of Monmouth
State of New Jersey**

RETURN OF CERTAIN PROPERTIES

WHEREAS, the City has currently found that over the years the City has obtained title through the foreclosure process of properties in which the owners were never notified; and

WHEREAS; the City has currently found that over the years the City obtained title of properties due to clerical errors; and

WHEREAS, the City of Asbury Park is desirous of returning these properties to the rightful owners and putting them back on the tax rolls; and

WHEREAS, the City Attorney and staff are hereby authorized to perform the necessary administrative actions to return properties to their rightful owners; and

WHEREAS, these properties are:

- 1233 Washington Ave
- 1227-29 Washington Ave
- 413 Prospect Ave
- 5 Avenue A

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park (the "City"), in the County of Monmouth, State of New Jersey authorize the City Attorney and staff to take the necessary administrative actions to return the above properties to the rightful owners.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-245 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS 13th DAY OF October, 2016.

CINDY A. DYE

CITY CLERK



RESOLUTION NO. 2016-247

**City of Asbury Park
County of Monmouth
State of New Jersey**

**RESOLUTION OF THE CITY OF ASBURY PARK MAKING APPLICATION TO THE
LOCAL FINANCE BOARD SEEKING AUTHORIZATION FOR NOT TO EXCEED
\$17,500,000 REDEVELOPMENT AREA BONDS TO FINANCE THE CONSTRUCTION
AND INSTALLATION OF CERTAIN INFRASTRUCTURE IMPROVEMENTS
WITHIN A PORTION OF THE ASBURY PARK WATERFRONT REDEVELOPMENT
AREA PURSUANT TO N.J.S.A. 40A:12A-29(A)(3) AND N.J.S.A. 40A:12A-67**

WHEREAS, the City of Asbury Park (the “City”) desires to make application to the Local Finance Board with respect to a proposed bond resolution authorizing the issuance of not to exceed \$17,500,000 redevelopment area bonds (the “Bonds”), which Bonds shall be used to finance the construction and installation of certain infrastructure improvements within a portion of the Asbury Park Waterfront Redevelopment Area (the “Infrastructure Project”), and a special assessment agreement with respect to same, all pursuant to the Redevelopment Area Bond Financing Law (N.J.S.A. 40A:12A-64 et seq.) (the “RAB Law”), N.J.S.A. 40A:12A-29(a)(3) and any other law of the State of New Jersey necessary to issue and delivery said Bonds; and

WHEREAS, the Bonds will be secured by special assessments paid by redevelopers, which payments shall be pledged and assigned by the City to secure the Bonds; and

WHEREAS, any financial instrument such as the Bonds proposed herein which are secured in whole or in part by payments of special assessments shall be subject to the review and approval of the Local Finance Board within the New Jersey Department of Community Affairs (the “Board”) pursuant to the RAB Law; and

WHEREAS, the City believes that:

- (a) it is in the public interest to accomplish such purpose; and
- (b) said purpose or improvements are for the health, welfare, convenience or betterment of the inhabitants of the local unit or units; and
- (c) the amounts to be expended for said purpose or improvements are not unreasonable or exorbitant; and

(d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the local unit or units and will not create an undue financial burden to be placed upon the local unit or units; and

(e) the implementation of the Infrastructure Project is in the best interests of the City and its residents,

NOW THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Asbury Park as follows:

I. GENERAL

The aforementioned recitals are incorporated herein as though fully set forth at length.

II. APPLICATION TO LOCAL FINANCE BOARD APPROVED

(a) The application to the Local Finance Board is hereby approved, and the City's bond counsel, Archer & Greiner, P.C., and special counsel, McManimon, Scotland & Baumann, LLC, along with other representatives of the City, are hereby authorized to prepare and submit the above-referenced application.

(b) The Clerk is hereby directed to prepare and file a copy of this Resolution with the Local Finance Board as part of such application.

(c) The Local Finance Board is hereby respectfully requested to consider such application and to record its findings, recommendations and/or approvals as the same may be required by law.

(d) The City's Mayor, Manager or Chief Financial Officer are each hereby authorized and directed to determine all matters in connection with the Bonds and the project associated with same not determined by this or a subsequent resolution, all in consultation with Bond Counsel or Special Counsel, and the manual or facsimile signature of the City's Mayor, City Manager or Chief Financial Officer upon any documents shall be conclusive as to all such determinations. The City's Mayor, Manager, Chief Financial Officer, Clerk and any other City Representative, including but not limited to, Bond Counsel or Special Counsel, are each hereby authorized and directed to take such actions or refrain from such actions as are necessary to consummate the transaction contemplated by the City's issuance of the Bonds and the undertaking of the project associated with same, and any and all such actions or inactions taken by the aforesaid City Representatives heretofore are hereby ratified and confirmed, *nunc pro tunc*.

III. SEVERABILITY

If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

IV. AVAILABILITY OF THE RESOLUTION

A copy of this resolution shall be available for public inspection at the offices of the City.

V. EFFECTIVE DATE

This Resolution shall take effect immediately upon its adoption.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2016-247 which was finally adopted by the City Council at a meeting held on the 12th day of October, 2016

CERTIFIED BY ME THIS DAY OF , .

CINDY A. DYE
CITY CLERK



**Asbury Park, New Jersey
ORDINANCE NO. 2016-36**

**AN ORDINANCE VACATING A PORTION OF LEE'S LANE RIGHT OF WAY
ASBURY PARK, NEW JERSEY**

WHEREAS, in 1970 under the predecessor law to the present Local Redevelopment and Housing Law (*N.J.S.A. 40A:12A-1 et seq.*, the "Act") the City of Asbury Park adopted a Redevelopment Plan ("Initial Plan") for the Springwood Avenue Redevelopment Area ("Area"); and

WHEREAS, since that time the Area has been redefined and the Initial Plan has been amended which resulted in the current plan entitled the "Amended Springwood Avenue Redevelopment Plan" dated December 19, 2007 ("Redevelopment Plan"); and

WHEREAS, in order to effectuate the terms of the Plan and the redevelopment of Block 803, Lots 1-14, located at the southeast corner of the intersection of Springwood Avenue and Atkins Avenue, it is necessary and desirable to vacate the remaining portion of the Lee's Lane Right of Way which is an undeveloped paper street; and

WHEREAS, the City is authorized to vacate a portion of the Lee's Lane Right of Way pursuant to *N.J.S.A. 40A:12A-8(d), (f) and (n)* of the Local Redevelopment and Housing Law and *N.J.S.A. 40:67-1 et seq.*

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. All public rights and privileges now possessed by the City of Asbury Park in the portion of the Lee's Lane Right of Way as further detailed on the attached Plan, entitled: "Map Showing Lee's Lane to Be Vacated, City of Asbury Park, Monmouth County, New Jersey", (copy on file with City Clerk) and the accompanying Metes & Bounds description, entitled: "Description of Lee's Lane To Be Vacated City of Asbury Park, Monmouth County, New Jersey, Schedule B" (copy on file with City Clerk) prepared by Michael S. Finnegan., a New Jersey Professional Land Surveyor and Engineer, be and are hereby vacated and extinguished except for a 4 foot wide drainage easement running north to south adjacent to Lot 14.

2. Title to the area being vacated shall merge with title to the adjacent property as further detailed in the attached Plan and Metes & Bounds description (copy on file with City Clerk).

3. There is hereby reserved and excepted from said vacation all rights and privileges now possessed by public utilities, as defined in *N.J.S.A. 48:2-13*, and by any cable television franchise company as defined in the "Cable Television Act." P.L. 1972, c. 186 (*N.J.S.A. 48:5A-1 et seq.*), to maintain, repair or replace their existing facilities in, adjacent to, over or under any part thereof of the area being vacated.

4. The Official Zoning Map of the City of Asbury Park is hereby amended in accordance with the requirements of this Ordinance.

5. The provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

6. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

7. This Ordinance shall take effect upon final passage and publication in accordance with the law and recording with the County of Monmouth.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2016-36 which was finally adopted by the City Council at a meeting held on the 12 12th day of October, 2016

CINDY A. DYE
CITY CLERK



**Asbury Park, New Jersey
ORDINANCE NO. 2016-35**

**AN ORDINANCE AMENDING AN ORDINANCE ENTITLED ‘STREETS, SIDEWALKS
AND SIDEWALK SIGNS; WORK WITHIN CITY RIGHT-OF-WAY AREAS’
CHAPTER 16-1 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF
ASBURY PARK, MONMOUTH COUNTY, AND STATE OF NEW JERSEY**

BE IT ORDAINED by the Mayor and Council of the City of Asbury Park, that Chapter 16-1 entitled “STREETS, SIDEWALKS AND SIDEWALK SIGNS; WORK WITHIN CITY RIGHT-OF-WAY AREAS” of the Ordinances of the City of Asbury Park is hereby amended and that those portions of the aforesaid set forth below are hereby amended as follows and that those portions of the Ordinance not set forth below shall remain unchanged:

23-1 STREET OPENINGS.

23-1.1 Purpose.

The purpose of this section is to establish regulations and fees for the opening of municipal streets within the City of Asbury Park. (1982 § 192-1)

23-1.2 Definitions.

As used in this section:

Extensive opening shall mean an opening, tearing up or excavating, for any purpose, of a City road of one hundred (100) feet or more of roadway length or where connecting lateral openings are made at average intervals of less than one hundred (100) feet along the roadway length or an opening which disturbs twenty (20%) percent or more of the pavement area.

Owner shall mean any person, corporation, public utility or other entity on whose behalf a street opening is performed by a permittee.

Permittee shall mean any person, firm or corporation granted a permit hereunder.

Public utility shall mean telephone, telecommunications, electric, water, gas and cable television companies or any other entity having either the power of eminent domain or subject to the regulations by the Public Utilities Commission of the State of New Jersey.

Small opening shall mean any opening, tearing up or excavating, for any purpose, of a City road, which is not an extensive opening.

Street shall mean any street, road or other public way dedicated to and accepted by the City of Asbury Park, and shall include all of the area thereof lying within the bounds of the dedicated right-of-way.

23-1.3 Permit Required.

a. No person, persons or corporation, municipal or private, nor any utility company, public or private, shall for any purpose open, tear up, excavate, bore, tunnel or drive under or in any way impair the surface or sub-surface within the limits of the right-of-way of any street in the City of Asbury Park without first obtaining a road permit from the Department of Public Works of the City.

b. Only such persons, firms or corporations to whom or to which permits have been granted shall be permitted to perform such work and then only in the manner herein required and only as specifically allowed in the permit. Assignment of rights under any permit issued hereunder is prohibited and permits purportedly assigned shall be immediately void. Contracting or subcontracting work to a person, firm or corporation to whom or to which no permit has been granted is prohibited and complying with the requirements set forth by this section.

c. Any corporation which is a public utility, subject to regulation by the Board of Public Utility Commissioners of the State of New Jersey, or a municipal corporation or any department thereof, and which desires to obtain permits under the provisions of this section, shall, in lieu of the provisions hereof requiring deposits under subsections 16-1.6 and 16-1.7, make a bond, and which may be the bond of such public utility solely, in the penal sum of one hundred thousand (\$100,000.00) dollars. If the public utility anticipates more than ten (10) street openings per annum, then such utility will be required to submit a bond in the penal sum of ninety thousand (\$90,000.00) dollars supplemented with a ten thousand (\$10,000.00) dollar cash deposit which shall be held in escrow by the City. All bonds shall run in favor of the City and will be placed on file with the City Clerk. Such bond shall be conditioned upon compliance with the applicable provisions of this section in respect to each street opening which shall be made by such public utility in the City and the obligation of such bond shall be a continuing obligation to the full amount thereof in respect to each such street opening. If a deficient street opening is identified, the public utility shall be notified in writing and given fourteen (14) calendar days from the date of notification to repair same. Failure by the utility to repair the deficiency will result in use of the cash deposit by the City to repair the same. If the cash deposit is insufficient to repair the deficiencies, then the City shall seek reimbursement from the respective utility and/or bonding company for the additional amount. If such reimbursement is not received by the City within thirty (30) calendar days of written notification, then an additional assessment of twenty-five (\$25.00) dollars per day may be added to the reimbursement amount as determined by the City Manager. Any use of the ten thousand (\$10,000.00) dollars escrow cash deposit must be replenished by the public utility within thirty (30) days of written notification by the City. No permits will be issued until the escrow deposit is replenished. Any utility which posts their performance security via one hundred thousand (\$100,000.00) dollar utility bond will also be given fourteen (14) calendar days to repair any deficient road opening. If there are more than three (3) occasions whereby the deficient street opening is not repaired within fourteen (14) calendar days, then such utility will be required to revise their form of bonding to a ninety

thousand (\$90,000.00) dollar utility bond and a ten thousand (\$10,000.00) dollar cash deposit which shall be held in escrow by the City.

The City will maintain the requisite permit logs to monitor the number of permits issued to each utility. Any utility which posts the one hundred thousand (\$100,000.00) dollar bond, and exceeds its threshold of ten (10) street openings per annum, will be required to revise their form of bonding to a ninety thousand (\$90,000.00) dollar utility bond, and a ten thousand (\$10,000.00) dollar cash deposit prior to the City's issuance of any additional permits beyond the threshold. (Ord. No. 2721 § 16-1.18; Ord. No. 2768)

23-1.4 Work Performed By and For the City.

Nothing contained in this section shall be construed as requiring the issuance of a permit for the performance of any work done by the City of Asbury Park or under a contract with the City for the construction of waterlines, sewer lines or street improvements.

23-1.5 Proof of Notification of Underground Utilities.

No person or corporation shall be issued a road opening permit until he presents satisfactory proof in the form of the authorization number from the One-Call Damage Prevention System as required by N.J.S.A. 48:2-73 et seq.

23-1.6 Certain Openings Restricted.

No street, road or paved area constructed, reconstructed or repaved within ten (10) years, based upon the useful life of the New Jersey Bond Law, of the time that the road is sealed, other than a planned development approved by the Planning Board of the City or other regulatory authority, can be excavated, built or patched except in the case of emergency, which includes but is not limited to gas leaks, water main leaks and sewer breaks. (1982 Code § 192-3D; Ord. No. 1379-08-13)

23-1.7 Marking of Utilities Required.

Certification of all underground facilities having been previously located and marked using standard color codes for gas, water and other utilities. Certification must indicate marking authorization number. (1982 § 192-3E) Final line striping and pavement markings must be restored immediately to original or better condition. The standard for the City of Asbury Park for line striping and traffic markings is the application of 6" min. width hot extruded thermoplastic.

23-1.8 Application Requirements; Procedure; Issuance of Permit.

a. Form.

1. Application for a permit shall comply with the "City of Asbury Park, Department of Public Works Operations Road Opening Permit Policy Requirements" and shall be made in writing on forms prescribed by the Superintendent of the Department of Public Works and

issued by the said Department and shall be filed at least one (1) week prior to the commencement of any work unless it is an emergency. The application shall specify the name and address of the applicant; the specific location of the proposed excavation and the width, length and depth thereof; the type of road or other surface; and the individual(s), firm or corporation for whose benefit the excavation is to be made and shall be accompanied by a nonrefundable fee for the issuance of the permit as hereinafter provided, together with the charges as hereinafter set forth.

2. Applications for extensive openings shall require, in addition to the above, information regarding:

- (a) All improvements.
- (b) Typical details and sections of construction procedure.
- (c) Plans, profiles and other details necessary to accurately depict the work.

3. No work may commence by the permittee until the date set forth in the issued permit.

b. *Emergency Road Opening.*

1. In the event that an emergency condition exists requiring immediate action by any person, firm or corporation required to obtain a permit pursuant to this section, the person may immediately cause the roadway to be entered and emergency measures taken without first obtaining a permit, provided that:

- (a) A true emergency exists and the person(s) doing the work notifies the City of Asbury Park Police Department prior to start of work; the Police Department shall log the emergency.
- (b) A permit is applied for within twenty-four (24) hours of the road opening or on the next business day, whichever is more practical.
- (c) All work is performed in accordance with the provisions of subsections 23-1.9, 23-1.10, 23-1.11 and 23-1.12.
- (d) The Superintendent of the Department of Public Works or the City Engineer shall be notified within twenty-four (24) hours of a road opening. If a road opening commences on a Saturday or Sunday as a result of emergency road work, the Police Department of the City shall be notified prior to start of work, and the Superintendent of the Department of Public Works or City Engineer shall be notified on the morning of the first business day thereafter.
- (e) In the event of an emergency opening, the person, company, or utility shall apply for a permit no later than the next business day. Any opening that is found without a permit issued will be subject to a \$1,000.00 application fee and a \$75.00 inspection fee. No exceptions.

2. The City reserves the right to issue a written stop work order where same is deemed appropriate by the Superintendent of the Department of Public Works or City Engineer.

c. *Review of the Application of Small Openings.* Prior to the issuance of a permit, copies of the application therefor shall be referred to the Superintendent of the Department of Public Works or the City Engineer who shall, within five (5) working days, note any objections to the issuance of a permit or any conditions which shall be satisfied prior to or be imposed as conditions upon the issuance of the permit, as appropriate.

d. *Applicant.* The applicant must be a licensed contractor or agent of a public utility, whether corporate, individual or partnership, who will be actually engaged in the performance of the work to ensure the safety of the public and that the work is done in accordance with City specifications. The application shall be made for and on the behalf of the owner for whom such work is being done and shall be countersigned by such owner. Permits will not be issued directly to private owners or developers without specific written approval of the Mayor and City Council.

e. *Agreement.* Except where otherwise provided by law, the owner shall agree, as a condition of the issuance of a permit, that any facilities, pipes or poles or other object(s) to be installed within the City right-of-way pursuant to the permit shall be promptly relocated at the owner's expense, except where otherwise provided by law, as required by the City of Asbury Park, to accommodate the installation of City facilities. Such agreement shall be in writing and contained on the face of the application form and permit.

f. *Review of Application for Small and Extensive Openings.* All small and extensive openings shall first be reviewed and approved by the Superintendent of the Department of Public Works, and extensive openings shall subsequently be reviewed and approved by the City Engineer prior to the issuance of a permit.

g. *Issuance.* Street opening permits shall be issued by the Public Works Department once reviewed and approved as provided for herein; provided, however, that no permit shall be issued until an application fee and an engineering fee, both of which are nonrefundable, have been paid to the City.

23-1.9 Work Requirements.

a. *Generally.* The New Jersey State Department of Transportation Standard Specifications for Road and Bridge Construction, with all amendments and supplements, shall govern all of the work performed under City of Asbury Park road opening permits, except as supplemented below.

1. No City road shall be closed to traffic without prior written consent of the Police Department. In the event that a road is closed, uniformed police may be required to act as traffic directors. Maintenance and protection of pedestrian and traffic control is the responsibility of the applicant and must conform to NJDOT and MUTCD standards along with the requirements of the local municipality. All costs of providing uniformed police shall be the responsibility of the permittee or the owners. In the event that a detour is deemed necessary by the permittee, application shall be made to the Chief of Police, who shall determine the necessity for such detour and the route to be followed. In

emergency situations, notification by phone to the Police Department shall be done prior to start of work.

2. Any work under an issued permit must be commenced within three (3) months from the date of issue and completed forty-five (45) days from commencement, or the permit shall be deemed void, and reapplication shall be required.

3. With the exception of emergencies and weather permitting, work commenced under a permit shall be continued without interruption during normal working hours until completed.

The City reserves the right for “emergency” road openings to permit work to be undertaken upon a “24/7” basis.

4. The applicant shall notify the City Clerk; Police Chief and the Superintendent of the Department of Public Works or the City Engineer forty-eight (48) hours in advance of the actual commencement of any work under a permit.

5. The existing pavement must be cut with a compressor, wet saw, or an approved mechanical cutting device, in a straight line and to the full depth of pavement before excavation. All City storm drains and catch basins will be protected at all times. Any damage will be repaired by the applicant at his expense.

6. All fill removed from trench is to be discarded by applicant. The trench must be of suitable width to obtain proper mechanical compaction. All backfill is to be done with quarry process stone Type 1-5 or DGA, or other suitable material if approved by the City Engineer, for the full depth of the trench. First lift of fill, twelve (12) inches above pipe, shall be compacted using a Jumping Jack or Vibratory Tamper. Successive lifts shall be compacted by mechanical means such as tamping, vibrating or rolling. A vibra plate tamper is not acceptable.

7. For Bituminous concrete roadways, upon completion of the proper backfill, a compacted 10 inch layer of bituminous concrete stabilized Base mix 1-2 shall be utilized in lifts of no more than three (3) inches (compacted thickness) in all trench areas.

For concrete roadways, upon completion of the upon completion of the proper backfill, pavement shall be restored utilizing 10 inches of Class B concrete with double wire reinforcing.

The specific requirements relative to the restoration of concrete roadways is covered in Section 23-1.12; Construction Specifications, of this Ordinance.

For both bituminous concrete and concrete roadways, the top surface shall be flush with the adjacent pavement and be uniformly contoured to the existing surrounding surface.

For concrete roadways, the concrete material shall be "plated" in

accordance with the requirements of this Ordinance for a 28 day period to assure proper curing.

If "High Early" concrete is utilized, the excavation shall be "plated" for a minimum of 14 days.

Under the provisions of this Ordinance, to assure proper curing, prior to the possibility of the City needing to apply de-icing materials, concrete may not be installed after October 20th.

Should a roadway opening be made after that date, the pavement shall be restored using 10 inches of bituminous concrete stabilized Base Mix 1-2 installed in accordance with the provisions of this Ordinance.

The bituminous concrete stabilized based pavement shall be removed after April 1st of the subsequent calendar year and standard concrete pavement installed.

8. Applicant must install and maintain temporary line striping and pavement markings.

9. The applicant further agrees to keep the trench filled to the level of surrounding pavement until settlement has ceased. City of Asbury Park shall be held harmless in any and all accidents arising out of trench defects.

10. a) After the Superintendent of Public Works has determined that the excavation has had a sufficient time period for settlement, final restoration will be undertaken using 2 inches (compacted thickness) of bituminous concrete surface course Mix 1-5 to be placed over the entire area of stabilized base as determined by this office. The surface pavement shall be "infra-red" to assure a seamless transition between existing pavement and the road opening.

b) The resulting milled surface shall then be swept and tack coat material applied before the two (2) inch compacted surface course is laid. This course shall be thoroughly compacted flush with the surrounding surface by vibratory rolling and be uniformly contoured to the adjacent pavement.

c) When using infrared resurfacing application, all stabilized base material in the road opening plus a minimum of twelve (12) inches surrounding the edge of the opening require heating and raking to a depth of one (1) inch. All raked material to be discarded and replaced by fresh hot FABC top mix.

d) All manhole frames and covers installed within the pavement area shall be set to finished grade. Any scarring or road damage to any other part of a City roadway caused by this permit shall be repaired as per the above conditions.

11. When necessary to cross over, or under existing bridges or culverts under the jurisdiction of the county, no work whatsoever shall be performed until the City engineer has approved filed plans. There shall be a minimum of 12 inches separation between the City drainage system and the utility line.

12. The City requires an extended maintenance period of up to two years after permanent restoration and an additional maintenance bond depending upon the nature of the work involved. This additional obligation will be released upon completion and acceptance of the work by the City. The maintenance bond shall be executed by the permittee as principle and Surety Company licensed to do business in the State of New Jersey as surety.

13. No road opening permit will be issued between November 15th and March 15th unless an emergency exists. In the event an emergency exists and a permit is issued during this period, the applicant, by accepting this permit, assumes all responsibility for the safe maintenance of said opening and further assumes all liability for damages resulting from or any way connected to this project.

14. The use of steel plates on City roadways between November 15th and March 15th is prohibited. All steel plates that are installed on City roadways are to be countersunk, pinned, and ramped.

15. Applicant is responsible for complete and total restoration of opening and surrounding roadway for a period of up to two years after permanent paving. There are no exceptions. All escrow monies and bonds will be released at that time when all workmanship connected with this project is deemed acceptable.

16. Certification of all underground facilities having been previously located and marked using standard color codes for gas, water and other utilities. Certification must indicate marking authorization number. (1982 § 192-3E) Final line striping and pavement markings must be restored immediately to original or better condition. The standard for the City of Asbury Park for line striping and traffic markings is the application of 6" min. width hot extruded thermoplastic.

17. Additional Extensive Road Opening Requirements

- (a) Permanent pavement will be milled and paved from curb line to yellow center line from start to finish. If laterals are 100' apart or less, the entire road shall be milled and paved from curb to curb start to finish. Laterals that are more than 100' apart shall have infrared paving repairs.

- (b) Traffic lines with thermoplastic glass beads must be replaced.
- (c) Backfill quarry process with dust shall be compacted every 10 inches by mechanical vibratory compactor. The utility company/contractor shall be responsible for a period of two years to make repairs related to any settlement.
- (d) Before crossing over, or under existing bridges, drainage structures or culverts under City jurisdiction, the applicant must notify the City and no work whatsoever shall be performed until the City engineer has approved filed plans. (Every effort must be made to have a minimum separation of 12 inches between the outside of your pipes and our drainage structures).

b. *Guard.* The applicant shall keep the work site properly guarded both day and night and shall have lights, barriers and adequate safety devices as described in the Manual on Uniform Traffic Control Devices placed thereat and maintained throughout the performance of the work and shall interfere as little as possible with traffic along the street or road within the City, and only that part of any such street or road as is set forth in the permit shall be opened.

c. *Minimum Cover.* All utilities shall be constructed with a minimum cover as shown in Table I set forth below to provide protection for the utilities in the event that future City road construction, repair or modification necessitates excavation, undercutting or installation of facilities in the area where the utility is located. This location will in no way relieve the utility owner of the responsibility of relocating the utility at the utility owner's expense in case of conflict with future construction, reconstruction or modification of related facilities, except as otherwise specified herein. The aforementioned minimum cover may be waived by the Superintendent of Public Works or City Engineer if the applicant prepares and files certified plans indicating the location, extent and depth of the facilities and the plans are approved by the Superintendent of Public Works or City Engineer. This subsection shall apply only to new construction.

Table I

Utility Designation	Minimum Cover* (inches)
Cable television	18
Electric	18
Gas	30
Telephone	18
Water	48

*NOTE: Measured from top of pipe, conduit, duct or cable to finished pavement or ground surface.

d. *Protection of Existing Structures.* It shall be the responsibility of the permittee to give proper notice of the proposed street opening to any person, firm or corporation whose pipe, conduits or other structures are laid in the portion of the street to be opened. The notice shall be

given to all utilities by calling the One-Call Damage Prevention System at telephone number 1/800/272-1000 as provided by law, and the permittee shall restore same, at his own expense, to the condition it was in prior to commencement of work.

e. All excavations shall be completely backfilled at the end of each working day unless it would constitute a hardship to the permittee or where the size of the excavation makes it impossible to backfill at the end of each working day, in which event a waiver may be granted by the Superintendent of Public Works or City Engineer. In the event that a waiver is granted, the contractor or owner shall cover the excavation with heavy one (1) inch thick plates secured to existing pavement to prevent rattles and movement and erect appropriate barriers and lights around the entire excavation and arrange to provide appropriate security protection, if such security is necessary, at his own cost, and such other safeguards as may be needed to protect the public from an open excavation. If plates are placed for over a weekend or for an extended period, all edges are to be macadam-sealed and sloped. In no event shall an excavation be left open for more than seventy-two (72) hours unless an emergency exists and permission has been secured from the Chief of Police, Superintendent of the Department of Public Works, City Engineer or their designated representatives.

23-1.10 Maintenance of Work Site; Removal of Debris.

a. The permittee shall be liable for any damage to the roadway leading to or adjacent to the work site.

b. The permittee shall, on a continuing basis, maintain all streets and other property affected by the construction in a clean condition free from all rubbish, excess earth, rock and other debris. Upon completion of all work under the permit, the permittee shall again clean the affected property and remove all debris and unused material. In the event that the permittee fails to act as provided herein, the City, upon twenty-four (24) hours' notice to the permittee, may clean and remove all rubbish, excess earth, rock, debris and unused material and charge the permittee the cost thereof. If the permittee fails to reimburse the City for the costs incurred, the costs shall be deducted from the permittee's deposit held by the City Clerk.

23-1.11 Inspections; Stop Work Order; Action by City.

The Superintendent of Public Works or City Engineer shall periodically inspect all road openings and the repair and resurfacing thereof for the purpose of determining compliance with the conditions imposed on the issuance of the permit and the specifications. The City may, upon the recommendation of either of them:

- a. Order a temporary stop to any road opening.
- b. Order that the applicant perform or correct work in accordance with the directions of the City.
- c. Order a stop to any work and revoke the permit, in which event the City of Asbury Park shall complete the work, or cause it to be completed, and either declare the applicant's deposit forfeited or notify the applicant's surety of an intent to file claim on the bond.

d. Authorize the correction of any work after notification to the permittee and after the neglect or the refusal of the permittee to make such corrections within twenty-four (24) hours and, after the completion of same, either declare the permittee's deposit forfeited or notify the permittee's surety of an intent to file a claim on the bond.

e. Take any other action deemed reasonable under the circumstances to protect the City's interests.

23-1.12 Construction Specifications.

No road opening shall be permanently paved until a final inspection has been made by the City Engineer or Superintendent of the Department of Public Works and final approval given.

a. For all openings:

1. The paved roadway surfaces shall be saw-cut or blade-cut vertically on a straight line with approved pneumatic equipment before excavating.

2. The material excavated from the trench opening shall not be replaced as backfill unless expressly authorized by the Superintendent of the Department of Public Works or City Engineer. Excavated materials must be removed from the work site the day of excavation.

3. The backfill of dense graded aggregated or bank run sand, where permitted, shall be furnished from outside sources.

4. The uncompleted length of road opening allowed under a permit at any one time shall not exceed fifty (50) linear feet unless a special need can be established by the permittee and approval to exceed this limitation is secured from the Superintendent of the Department of Public Works or City Engineer. Such special need shall be noted in writing to the Superintendent of the Department of Public Works or City Engineer before such permission is granted, except in unusual cases and/or emergencies. In that event, such special need shall be documented in writing after approval is granted.

5. Where existing manholes are located in the shoulder areas, a minimum of two (2) inches (compacted thickness) of Hot Mix Asphalt Surface Pavement, Mix I-5 shall be placed for eight (8) feet on both sides of the manhole casting on four (4) inches of compacted dense graded aggregate stone sub-base. The width of the Hot Mix Asphalt Pavement Mix #I-5, shall vary to the dimensions of the existing shoulder.

6. All backfill shall be placed in six (6) inch layers, with each layer thoroughly compacted by mechanical means to the satisfaction of the Superintendent of the Department of Public Works or City Engineer. The Superintendent or City Engineer shall have the right to require a compaction test to be performed by an independent laboratory at the expense of the permittee.

7. After proper compaction and cutback of the road, the entire width of the trench plus a four (4) inch overlap shall be paved with the temporary pavement.

b. *Asphalt Pavement Openings.*

1. For openings in bituminous concrete or penetration macadam pavements, backfill material shall be deposited in one (1) foot layers and thoroughly compacted to a level twelve (12) inches below the surface level of the adjacent paved surfaces. The opening shall be cut back six (6) inches beyond the edges of the trench opening. The sub-base course shall be dense graded aggregate four (4) inches compacted thickness. The base course shall be Hot Mix Asphalt Mix I-2 (stabilized base six (6) inches thick (compacted thickness) placed in three (3) lifts. The surface course shall be two (2) inches (compacted thickness) of Hot Mix Asphalt Surface Pavement Mix I-5 with all joints between the existing pavement and the bituminous concrete surface course to be sealed with a tack coat.

2. When road openings are in sequence or are within three (3) feet of another opening, the surface area of the combined openings will be paved to form one (1) continuous surface. The surface course shall be two (2) inches (compact thickness) of Hot Mix Asphalt Surface Pavement, Mix I-5 with all joints between the existing pavement and the bituminous concrete surface course shall be sealed with a tack coat.

3. The temporary pavement shall consist of four (4) inches (compacted thickness) dense graded aggregate sub-base and the Hot Mix Asphalt Pavement Mix I-2 (stabilized base) course described herein.

The temporary pavement shall be placed and compacted one (1) inch below the finished surface of the existing pavement and shall be maintained at this level by the permittee by the addition of Hot Mix Asphalt Surface Pavement, Mix I-5 until final settlement has occurred. After the City Engineer and/or Superintendent of Public Works has determined that final settlement has occurred, the pavement shall be completed by the placing and compaction of additional Hot Mix Asphalt Surface Pavement, Mix I-5, level with the existing pavement. Prior to placing the additional Hot Mix Asphalt Pavement, the pavement shall have "tack" applied. This section applies to all openings, including those completed by a public utility. The public utility shall work the City to ensure the temporary pavement is replaced in a timely fashion.

c. *Concrete Pavement Surface Openings.* For all openings in concrete surfaces, the trench backfill shall be compacted in one (1) foot layers to a level four (4) inches below the top of the adjacent paved surface. The openings shall be cut back six (6) inches beyond the edges of the trench opening. Four (4) inch (compacted thickness) of Hot Mix Asphalt Pavement Mix I-2 (stabilized base) temporary pavement shall then be placed in two (2) inch lifts, compacted level with the existing pavement and shall be maintained by the permittee to a pavement, level with the existing pavement by adding additional Hot Mix Asphalt Pavement material until final settlement has occurred. After the City Engineer and/or Superintendent of Public Works have determined that final settlement has occurred, the temporary Hot Mix Asphalt Pavement shall be removed and the opening excavated to a depth of ten (10) inches and a pavement of Class "B" concrete, ten (10) inches in depth shall be constructed level with the existing pavement surface. The Class "B" concrete pavement shall be reinforced with a double level of 6 x 6, No. 6 gauge wire mesh reinforcing and shall be placed in the opening and extend fully into the cutback shelf. The "bottom" wire reinforcing shall be set eight (8) inches from the roadway surface. The "upper" reinforcing shall be set two (2) inches from the pavement surface.

The concrete pavement shall be "finished" to "match" the roadway surface or with a "broom" finish as directed by the City Engineer or Superintendent of Public Works.

After the concrete has been placed and if the roadway is to be opened to traffic prior to full "curing" of the concrete pavement, the roadway shall be "plated" with standard highway plates capable of supporting H20 loading. The plate shall extend a minimum of six (6) inches beyond the limits of the new concrete pavement. The plates shall be secured and installed in accordance with current New Jersey Department of Transportation specifications including temporary ramping and shall remain in place for a minimum of twenty-eight (28) days to permit curing of the concrete.

If "high early" concrete is utilized, the plates shall remain in place a minimum of fourteen (14) days.

d. *Nonpaved Area.* All grass or graveled area or sidewalk areas disturbed within the City right-of-way shall be reconstructed, topsoiled, seeded and mulched within fourteen (14) days of completion of excavation. All concrete areas will be thoroughly compacted. These limits may be

waived by the Superintendent of the Department of Public Works or the City Engineer only when abnormal temperatures or inclement weather necessitates the same.

e. All work shall be guaranteed for a period of twelve (12) months.

f. *Openings Undertaken Within Ten Years of Resurfacing.* If a utility opening is undertaken less than ten (10) years after a roadway has been resurfaced, the utility shall be required to profile and resurface that portion of the roadway deemed necessary by the City Engineer and/or Superintendent of Public Works.

g. All roadway excavations be "sawcut."

h. Roadway openings shall be restored using infrared pavement restoration.

23-1.13 Insurance; Deposits.

a. *Insurance.* The applicant shall present evidence satisfactory to the Risk Manager of insurance sufficient to indemnify and save harmless the City, its agents and servants against and from all suits and costs of every kind and from all personal injury or property damage resulting from negligence or from any phase of operations performed under the permit.

b. The minimum policy limit of such insurance shall be as follows:

(1) Bodily injury liability coverage with limits of not less than one million (\$1,000,000.00) dollars for bodily injury, including accidental death, to any one person, and subject to that limit for each person, in an amount not less than one million (\$1,000,000.00) dollars for each accident; and property damage coverage in the amount of not less than five hundred thousand (\$500,000.00) dollars for each accident;

(2) One person in any one accident - amount of one million (\$1,000,000.00) dollars;

(3) Two or more persons in any one accident - amount of three hundred thousand (\$300,000.00) dollars; and

(4) Property damage in any one accident - amount of five hundred thousand (\$500,000.00) dollars with aggregate property damage limit of one million (\$1,000,000.00) dollars.

c. Where there is an extensive opening, the Superintendent of the Department of Public Works or the City Engineer may request additional insurance if it is deemed necessary under the circumstances.

d. *Security.*

1. A permit shall not be issued unless the applicant has deposited as security for faithful performance a certified check made payable to the City of Asbury Park or filed a

bond with a surety satisfactory to the City Attorney, the amount thereof to be based upon the security deposit fee schedule as contained in subsection 23-1.14 for the work to be performed.

2. A public utility applicant may, in lieu of the security required above, deposit an annual corporate bond in the amount of at least twenty thousand (\$20,000.00) dollars. The surety bond shall be renewed annually. In the event that a public utility applicant applies for a permit for road opening and/or road openings and the required security deposit fee set forth in subsection 23-1.14 exceeds the twenty thousand (\$20,000.00) dollars the public utility applicant shall file a surety bond in an amount equal to the difference between the twenty thousand (\$20,000.00) dollars and the required security deposit. For all nonpublic utility applicants, the surety bond shall be at least one thousand (\$1,000.00) dollars. A certified check for a lesser amount may be deposited, however, in the amount provided by subsection 23-1.14 for the work to be performed.

3. Upon satisfactory completion of all work permitted or required under the permit for extensive openings, if the security deposit is two thousand (\$2,000.00) dollars or less, the City of Asbury Park will retain one hundred (100%) percent of the security deposit as security for maintenance of the work for a period not to exceed one (1) year from the date of completion, provided that if the security deposit is in the form of a certified check, the permittee may deposit a surety bond of two thousand (\$2,000.00) dollars satisfactory to the City Attorney in lieu of the certified check. If the security deposit is greater than two thousand (\$2,000.00) dollars, then the City will release or refund sixty (60%) percent or more of the same with the approval of the Superintendent of the Department of Public Works or City Engineer, and the surety bond will be deposited for the maintenance as set forth above. All bonds and certificates of insurance shall contain a provision that the same shall remain in full force and effect for a period not to exceed one (1) year after the last work under any permit has been completed and accepted by the City.

4. In the case of a small opening, the City shall retain the security deposit for six (6) months after satisfactory completion of all work permitted or required under the permit, provided that if the security deposit is in the form of a certified check, the permittee may deposit a security bond in lieu of the check.

e. *Application Fee and Escrow Deposit.*

1. The applicant shall also pay, by separate money order, certified check or, if the applicant is a public utility as herein defined, by a corporate check, a nonrefundable application fee as set forth in subsection 23-1.14. Applications other than a public utility shall pay, by separate money order or certified check, a refundable escrow deposit fee for inspection and professional services as set forth in subsection 23-1.14. Should the escrow deposit fee account at any time become insufficient to cover the actual or anticipated inspection and professional expenses, the fund shall be subject to increase on demand of the Department of Public Works or CFO.

2. The City shall pay from the escrow deposit fee any costs incurred by its designated representatives or professional consultants for inspection or other engineering

services or legal fees required in connection with the proposed opening or excavation at the rate established.

23-1.14 Fees.

Fees shall be as follows:

a. *Application fee, Nonrefundable (Other Than Public Utilities).*

1. Road opening:

(a) Width of road opening.

(1) Two hundred fifty (\$250.00) dollars for one-half (1/2) the width of the road being opened.

(2) Five hundred (\$500.00) dollars for the full width of the road being opened.

(b) Length of road opening.

(1) Five (\$5.00) dollars per linear foot.

(c) From twenty-five (25) linear feet to fifty (50) linear feet by three (3) feet wide: an additional forty (\$40.00) dollars.

(d) Extensive openings: seventy-five (\$75.00) dollars.

2. Boring, tunneling or driving under road: lump sum minimum of seventy-five (\$75.00) dollars.

3. Curb, gutter, apron, sidewalk or driveway: lump sum of fifteen (\$15.00) dollars when affected by excavation.

4. Application fees shall be accumulated in one (1) account for each public utility, and the funds can be utilized for the payment of expenses incurred by the City for any work performed for the permittee without restriction as to which application the funds were originally posted for.

5. In lieu of individual application fees, public utilities may pay fees of two hundred fifty (\$250.00) dollars.

b. *Application Fee, (Utilities).*

1. Road Opening: Public Utilities shall pay an annual flat fee of two thousand Five Hundred (\$2,500.00) dollars per year, on or before January 15th of each year, beginning January 1, 2004 and thereafter.

c. Security deposit fee for guaranteeing restoration, pavement curbing or topsoil:

1. Opening paved area, curb, gutter, sidewalk or driveway:

(a) Base charge: twenty-five (\$25.00) dollars.

- (b) Charge for each square yard of trench opened: fifteen (\$15.00) dollars.
 - (c) Charge for each square yard of paving: five (\$5.00) dollars.
 - (d) Charge for each linear foot of curb: seven (\$7.00) dollars.
- 2. Opening shoulders and roadside areas:
 - (a) Base charge: twenty-five (\$25.00) dollars.
 - (b) Charge for each square yard of trench opened: five (\$5.00) dollars.
- 3. Boring, tunneling or driving under the road:
 - (a) Base charge: twenty-five (\$25.00) dollars.
 - (b) Charge per linear foot of boring: one (\$1.00) dollar.
- d. *Escrow Deposit Fee for Engineering and Legal Costs.*
 - 1. All road openings, excavations, borings and other work as stated on the permit application:
The Minimum escrow amount shall be \$2,500.00.
 - 2. Actual payment from the escrow deposit fee fund shall be based upon the following rates:
 - (a) Professional engineering services: To be billed at the current hourly rate of the City Engineer.
 - (b) Attorney: minimum fee of ninety-five (\$95.00) dollars per hour.
(1982 Code § 192-10; Ord. No. 1099-6-03 § 192-10)
 - (c) An inspection fee of \$225.00 covering a minimum of 3 inspections,
(\$75.00 per hour will be charged for any additional inspections).

23-1.15 Return of Deposit Upon Completion of Work.

Upon the completion of any such work, the Superintendent of the Department of Public Works or City Engineer shall file a report on a form to be furnished for that purpose, which report shall contain the date of completion, the amount of deposit, the cost to the City for resurfacing the area so excavated or opened, if the same shall have been necessary, and the balance, if any, due to the applicant. Upon receipt of the report by the balance due, if any, to the applicant on account of any deposit shall be forthwith returned.

23-1.16 Violations and Penalties.

Any person, who shall violate any of the provisions of this section shall, upon conviction, be liable to the penalty stated in Chapter I, Section 1-5. In case of failure to restore pavements or roads or streets as hereinabove provided, after written notice by the City Clerk to do so, each day that such pavements, roads or streets remain unrestored shall constitute a separate offense. (1982 Code § 102-11.1; New)

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2016-35 which was finally adopted by the City Council at a meeting held on the 12 12th day of October, 2016

CINDY A. DYE
CITY CLERK



**Asbury Park, New Jersey
ORDINANCE NO. 2016-37**

APPROVING AND ADOPTING AN AMENDMENT TO THE CENTRAL BUSINESS DISTRICT REDEVELOPMENT PLAN RELATING TO THE SECTIONS TITLED PARKING AND CIRCULATION, COOKMAN AVENUE RETAIL CORE AND TO IMPLEMENTATION OF REDEVELOPMENT PLAN

WHEREAS, on June 26, 2003 the Mayor and City Council adopted Ordinance No. 2646 entitled “AN ORDINANCE ESTABLISHING A CENTRAL BUSINESS DISTRICT REDEVELOPMENT PLAN FOR THE CITY OF ASBURY PARK” (the “Ordinance”); and

WHEREAS, pursuant to the Local Redevelopment and Housing Law (*N.J.S.A. 40A:12A-1 et seq.*, the “Act”) the Ordinance adopted a plan (the “CBD Redevelopment Plan” or the “Plan”) for the redevelopment of an area (the “Central Business District Redevelopment Area” or the “Area”); and

WHEREAS, the CBD Redevelopment Plan has led to an increase in public and private investment within the Area since its adoption, however, the Plan may benefit from amendments to remove barriers to further investment; and

WHEREAS, the Act sets forth the process by which amendments to any redevelopment plan shall be considered and, if appropriate, adopted; and

WHEREAS, the City wishes to revisit and amend the section of the redevelopment plan titled “Review of Certain Uses Within the Central Business District Redevelopment Area for Sound Mitigation Matters” ; and

WHEREAS, a copy of the proposed amendments to the Plan, as prepared by the City’s Director of Planning and Redevelopment, are attached hereto as Exhibit “A” (the “Proposed Amendments”); and

WHEREAS, the Mayor and City Council adopted a Resolution on May 11, 2016 referring this matter to the Planning Board for its review and comment pursuant to N.J.S.A. 40A:12A-7(e); and

WHEREAS, on October 3, 2016 the Asbury Park Planning Board reported that the Proposed Amendments to Parking and Circulation, and Implementation of the Plan are consistent

with the City Master Plan, but found that Cookman Avenue Retail Core (Exhibit C) and the corresponding Use Map (Exhibit F) revision were not consistent with the Master Plan and setting forth certain findings and recommendations as attached and reported to the Municipal Council; and

WHEREAS, the Mayor and City Council stated on the record that it finds the amendments are consistent with the Master Plan in that it accomplishes the Master Plan Planning Goals of Encouraging the development of a diversified economic base that generates employment growth, provides increased tax rateables, and increases income levels and that it promotes the continued redevelopment of the Central Business District as a mixed-use pedestrian-orientated core with a concentration of commercial and housing uses in close proximity of mass transit; and

WHEREAS, the Mayor and the City Council have considered the recommendations of the Planning Board, and wish to incorporate the same herein; and

WHEREAS, the Mayor and City Council now wish to adopt the Proposed Amendments as set forth herein.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That the recitals hereto are hereby incorporated herein as if set forth at length.
2. That the CBD Redevelopment Plan is hereby amended in order to incorporate the Proposed Amendments as set forth in Exhibits “A and D” which incorporates the Planning Board recommendations and Exhibits “C and F”.
3. The Municipal Council has found that Exhibits “C” and “F” are consistent with the Master Plan as expressed on the record.
4. That the Proposed Amendments shall supersede the prior language of the affected sections of the Plan.
5. That the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

6. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.
7. That this Ordinance shall take effect upon final passage and publication in accordance with the law, following the required twenty (20) day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2016-37 which was finally adopted by the City Council at a meeting held on the 12 12th day of October, 2016

CINDY A. DYE
CITY CLERK

EXHIBIT A

Red is new proposed language, ~~strikethrough~~ is a proposed deletion.

Page 3

PARKING AND CIRCULATION

As in any Downtown, the provision of adequate, easily accessible parking is vital for the health of the Central Business District. However, excessive parking, particularly in the form of surface parking lots, squanders valuable Central Business District property. This Plan presents a parking strategy which attempts to balance the amount of parking provided in the Central Business District. The redevelopment area's proximity to the transit center, the fact that Asbury Park has one of New Jersey's lowest rates of automobile ownership per household in New Jersey, and the compactness of the commercial area are all factored into the parking strategy. As the renaissance of the CBD occurs, it may be necessary from time to time to reevaluate and alter the City's Downtown parking strategy. It should also be noted that no significant changes are proposed to the local street network or traffic pattern.

One of the basic premises of the plan is that on-street parking spaces should be reserved on a priority basis for ground level, non-residential uses. On-street residential parking is undesirable since it utilizes a scarce resource for extended periods of time without turnover.

The former municipal parking deck currently owned by the State located between Bangs and Summerfield Avenues represents a resource that is not being fully utilized. Regardless of ownership, it is recommended that the underutilized capacity of the deck be made available on a priority basis for non-residential uses within the CBD.

Historically, Asbury Park's Central Business District did not include a significant residential component. Upper stories were used largely for business offices and services. The introduction of a significant residential component Downtown has a number of advantages, adding vitality and security to the Downtown. However, accommodating residential parking is a crucial component to the Central Business District's revitalization. Residential development within the CBD will take two forms. Renovation and conversion of upper stories in the Steinbach Building, the Cookman Avenue core, and in the mixed-use areas of the CBD and second, in the form of new residential development along Lake Avenue. Since non-residential parking needs are anticipated to be met by the parking deck and through on-street parking, new residential development must provide parking either on-site or within the CBD mixed-use district of the Central Business District.

The Lake Avenue Residential District will provide most of its required parking on-site. This parking will be provided at a rate of a minimum of 1.5 spaces per dwelling unit and will consist of garaged parking within the structures. The difference between the number of stalls required

and those provided on-site will be satisfied off-site, within the CBD Mixed-Use District.

Parking for the Steinbach Building, the Cookman Avenue core and the CBD mixed-use development portions of the redevelopment area are to be accommodated in one of three ways. In limited circumstances, on-site residential parking may be feasible. In the case of the Steinbach Building and other large scale residential conversions (including Block 117), parking will be provided off-site, within the redevelopment area in structured parking.

The most likely locations for new residential structured parking ~~includes the vacant properties at the eastern corner of Lot 119 and through the construction of new structured parking in Block 115.~~ The possibility exists for utilizing Lots 11.02 and 4.01 in Block 115 for structured parking affording access from Bangs and Mattison Avenues. The specifics for the construction of this structured parking will be finalized in the redevelopers' agreements.

As an incentive for commercial revitalization, for non-residential uses, no off-street parking is required for floor area in existing structures and for floor area of structures that existed at the time of adoption of the Central Business District Redevelopment Plan; or 10,000 square feet of non-residential construction, whichever is greater. Additional gross floor area of non-residential space is required to provide off-street parking at a rate of two spaces per 1,000 square feet of gross floor area. This is necessary to assure that any significant increase in CBD non-residential floor area provides adequate parking. This parking could either be accommodated on-site or through a contribution to a dedicated parking fund. **The amount to be contributed to the fund is the cost of a structured parking space or another amount approved by the municipal council.** The City will offer terms for the payments into the dedicated parking fund by developers who opt for such option.-It is the intent of the Redevelopment Plan that the CBD will be self-sufficient as to parking, neither relying on parking outside the district nor taking parking from the Waterfront Redevelopment Area in particular.

As an incentive for commercial revitalization, no off-street parking is required for non-residential uses. It is recommended that new "footprint" areas be required to provide additional off-street parking at a rate of two spaces per 1,000 square feet of gross floor area. This is necessary to assure that any significant increase in CBD non-residential floor area provides adequate parking. This parking could either be accommodated on-site or through a contribution to a dedicated parking fund. It is the intent of the Redevelopment Plan that the CBD will be self-sufficient as to parking, neither relying on parking outside the district nor taking parking from the Waterfront Redevelopment Area in particular.

~~The City will offer terms for the payments into the dedicated parking fund and/or create some type of creative funding mechanisms that would assist developers in making the required contributions. The terms of any funding mechanism or agreement with a developer should be filed in the Monmouth County Clerk's office as a lien against the title of the property and the individual condominium units within the proposed development.~~

~~To help manage the need for parking in the future, for the period ending on December 31,~~

~~2012, parking lots and structures shall be principal permitted uses on vacant lots and surface parking areas within the CBD Redevelopment Area, and, such spaces or other spaces outside of, but in close proximity to the CBD Redevelopment Area may be utilized to satisfy parking requirements on an interim basis subject to Planning Board approval; provided however that if an applicant wants to utilize such vacant lots, it shall make application to the City's Planning Board for temporary Site Plan Approval incorporating the temporary principal permitted use.~~ **Surface parking lots as principal parking shall be permitted as an interim use not to exceed five years with the option to renew for another five years. Application shall be made to the City's planning board and municipal council.** The Planning Board shall set forth requirements for appropriate screening to shield the parking area from surrounding properties and pedestrian and vehicular traffic on surrounding streets. This shall include specific requirements for materials surface details, construction, height and maintenance of the screening, in addition to appropriate lighting, signage and landscaping for the parcel which is subject to the application. **It is the discretion of the planning board and municipal council to approve or disapprove such parking lots.**

Recognizing that residential uses and certain non-residential uses have different peak parking demand periods during a 24 hour period, of the 1.5 parking spaces per residential unit provided on-site, one-third may be utilized by non-residential uses between the hours of 8:00am and ~~10:00~~ **6:00**pm. However, all of the 1.5 parking spaces provided per residential unit on-site shall be dedicated to those residential uses in the overnight hours, defined as between 10:01 pm to 7:59am.

~~This plan provides certain exemptions from parking requirements for non-residential uses as an incentive for redevelopment of the commercial base of the Central Business District. However, same as with residential uses, it is recognized that non-residential development has an impact on parking demands and available parking supply in the Central Business District Redevelopment Area. Over a period of three years ending on January 1, 2013, the City will examine and analyze the impacts that both residential and non-residential development has on the availability of on-site, off-site, and on-street parking as the CBD continues to redevelop. At the end of the three year period, the City may revise the parking policies and regulations contained in this plan to better reflect the amount and type of buildout occurring. Such revisions may include changing minimum non-residential and residential parking requirements, and a consideration of instituting shared parking strategies and other parking management techniques to maximize the number of available parking spaces~~

Accessory parking spaces for the principal use or uses that are a requirement of this plan must be utilized by the principal user(s) of the parking lot for the assigned principal use and cannot be used as commercial parking.

EXHIBIT C

Red is new proposed language, ~~strikethrough~~ is a proposed deletion.

Page 11**Cookman Avenue Retail Core****Purpose**

This district contains an eclectic mix of historic and architecturally significant buildings which should be adaptively reused for mixed-use development. First floor retail sales or restaurant uses are required to create a continuous “window shopping” streetscape for the length of Cookman Avenue in the Redevelopment Area. Upper floors may be used for a mix of non-residential and residential uses.

Permitted Principal Uses

Ground floor: retail sales, eating and drinking establishments subject to the City’s Land Development Regulations, art galleries, museums and theatres, banks, public parks. No drive thru uses of any kind are permitted. **Service retail, but not professional office or real estate services, is permitted on the ground floor only when a minimum of 20 feet of depth of the storefront fronting the street is used exclusively for retail or gallery space.**

Second floor of 700 Cookman Avenue: office, retail sales and service, residential, health and fitness clubs, cyber related businesses and professional offices such as software designers, web designers, e-commerce, and other computer and internet related companies, eating and drinking establishments pursuant to the City’s Land Development Regulations, performance space as accessory to an eating and drinking establishment. Cyber hotels are prohibited.

Third floor of 700 Cookman Avenue: office, retail sales and service, residential, health and fitness clubs, cyber related businesses and professional offices such as software designers, web designers, e-commerce, and other computer and internet related companies, nightclubs, sound recording studios, museums. Cyber hotels are prohibited.

At 700 Cookman Avenue, eating and drinking establishments and performance space accessory to an eating and drinking establishment may operate between the hours of 11:00am and 2:00am seven days a week. Nightclubs, sound recording studios, and museums may operate between the hours of 10:00am and 10:00pm Sunday through Wednesday, and between the hours of 10:00am to 12:00am Thursday through Saturday.

Upper floors: office, retail sales and service, residential, health and fitness clubs, cyber related businesses and professional offices such as software designers, web designers, e-commerce, and other computer and internet related companies. Cyber hotels are prohibited.

Permitted Accessory Uses and Structures

Uses that are incidental and accessory to principal permitted uses.

Bulk Standards

Maximum building coverage: 100%
 Maximum permitted height: See Height Regulating Map.
 Setbacks Minimum: None Maximum: 5 feet

Parking Standards

Non-residential uses: None

Residential uses: 1.5 spaces required per unit to be provided off-site within the CBD mixed-use district.
 Studio units: 1.0 spaces required to be provided off-site within the CBD Mixed-Use District. The developer may have the option of contributing an amount equal to the calculated parking impact fee times the number of spaces required to a fund dedicated to providing and improving parking in the CBD.

Lots 6.02 and 10.01 on Block 117: Residential Uses: 1.5 spaces per unit to be provided in the Lake Avenue Residential District on Lots 4, 5, and 7 on Block 117

Block 117 Phasing Plan

Block 117, lots 4, 5, 6.01, and 7, which are located in the Lake Avenue Residential District and Block 117, lots 6.02 and 10.01 which are located in the Cookman Avenue Retail Core District shall be developed in phases. The phases shall each be built within a period of time which the municipality fixes as reasonable and as specified in a redeveloper agreement.

Phase I: Shall include the rehabilitation of buildings located on Block 117, lots 6.02 and 10.01. The buildings shall contain ground floor non-residential uses that are permitted in the Cookman Avenue Retail core, and upper story residential uses. Additional stories may be added to the buildings and are subject to maximum height limitations set forth the Central Business District Redevelopment Plan.

Until such time as they are developed with residential uses as part of Phase II, surface parking lots located on block 117, lots 4, 5, and 7 shall be utilized to satisfy the parking requirements for the uses contained on Block 117, lots 6.02 and 10.01.

Phase II: Shall include the construction of new buildings containing residential uses on Block 117, Lots 4, 5, 6.01, and 7.

EXHIBIT D

Red is new proposed language, ~~strikethrough~~ is a proposed deletion.

Page 19

IMPLEMENTATION OF REDEVELOPMENT PLAN

The City may consider establishment of a Special Improvement District (SID) and/or the creation of a parking authority to assist in the implementation of this Redevelopment Plan.

All property owners in the redevelopment area are required to abide by the regulations of the redevelopment plan. ~~The redeveloper will be obligated to carry out the specified improvements in accordance with the Redevelopment Plan.~~

~~Selection of a developer shall include the following:~~

- ~~• An owner of the property shall apply to the Redevelopment Agency for review of preliminary Concept Plans for the proposed development (RFP) and provide the City with the financial qualifications (RFQ) for the development of the proposed plan.~~
- ~~• The financial qualifications should include the experience of the developer in areas of the development, the financial ability of the developer to carry out the plans, an estimate of costs soft and hard for its proposed development to be completed.~~
- ~~• The Council acting as the Redevelopment Authority shall have the ability to review the RFP and RFQ and make decisions on same as is necessary either with or without the review of consultants and/or financial auditors or review of City Planners or Engineers on a case-by-case basis.~~
- ~~• In the event of any property owner wishing to lease space or property owner wishing to develop space that requires the City review, i.e., a transfer of an establishment of a plenary retail consumption license which would require City approval, then, in the event, that type development shall come before the Redevelopment Agency of the City as well as the Mayor and Council acting as the local arm of the Alcoholic Beverage Commission.~~

In the event that the municipal council designates a developer for a particular project, the following restrictions and controls on redevelopment are hereby imposed in connection with the selection of a redeveloper(s) and shall apply notwithstanding the provisions of any zoning or building ordinance or other regulations now or hereafter in force. The restrictions and restraints shall be implemented by appropriate covenants or other provisions in redeveloper agreements and/or disposition instruments.

- The redeveloper shall enter into an agreement with the municipal council to fulfill certain obligations
- The redeveloper shall begin and complete the development of said land for the use(s) required in this Redevelopment Plan within a period of time which the City Council fixes as reasonable.

- Until the completion of the improvements, the redeveloper will not be permitted to sell, lease, or otherwise transfer or dispose of property within the Redevelopment Area without prior written consent of the City Council.
- ~~Upon completion of the required improvements, the conditions determined to exist at the time the Redevelopment Area was determined to be in need of redevelopment shall be deemed to no longer exist, and the land and improvements thereon shall no longer be subject to eminent domain as a result of those determinations.~~
- No covenant, agreement, lease, conveyance or other instrument shall be effected or executed by the redeveloper(s), the City Council, or the successors, lessees, or assigns of either of them, by which land in the Redevelopment Area is restricted as to sale, lease, or occupancy upon the basis of race, color, creed, religion, ancestry, national origin, sex or marital status.
- Neither the redeveloper(s) nor the City Council, nor the successors, lessees, or assigns or either of them shall discriminate upon the basis of race, creed, religion, ancestry, national origin, sex or marital status in the sale, lease or rental or in the use and occupancy of land or improvements erected or to be erected thereon, or any part thereof, in the Redevelopment Area.

Technical Review Committee (TRC)

~~The Mayor and Council may establish a Technical Review Committee (TRC). The TRC serves as an advisory body to the Planning Board and shall review all development applications that are located in the CBD redevelopment area. The TRC shall include the following: three Planning Board representatives including the Chairman, the Council liaison or his/her designee and one other Planning Board member, one member of the UEZ Façade Improvement Committee, an architect, the Planning Board engineer, the Planning Board planner and the Planning Board attorney.~~

The TRC may have the following responsibilities:

- ~~Determine whether the application is a minor or major development application.~~
- ~~Determine compliance with the technical standards set forth in this Redevelopment Plan.~~
- ~~Make recommendations on the design and technical elements of any application.~~

**RESOLUTION
CITY OF ASBURY PARK PLANNING BOARD**

WHEREAS, the City Council of the City of Asbury Park authorized the Planning Board by resolution to undertake a review of proposed amendments to the Central Business District Redevelopment Plan, hereinafter referred to as the CBD Plan, pursuant to the review powers granted to this Board set forth in the Municipal Land Use Act and the applicable redevelopment statutes in the State of New Jersey; and

WHEREAS, the Board is required by the applicable State Statutes to analyze the proposed amendments for consistency with the Master Plan of the City and such other planning concepts that the Board deems relevant; and

WHEREAS, the Board discussed this referral from the City Council at a public hearing held on September 19, 2016: and

WHEREAS, attached hereto and made a part hereof are Exhibits A, C, D & F. Said exhibits contain the relevant sections of the CBD Plan and the proposed amendments thereto; and

WHEREAS, based on the discussion by the Board, the Board hereby makes the following findings and recommendations to the Mayor and City Council regarding the proposed amendments:

1. Exhibit A, page 3, middle paragraph. The Board recommends that the time period referenced in lines 2 and 3 be changed from "8:00 am and 10:00 pm" to "8:00 am and 6 pm". This will be consistent with the present residential and commercial parking space usage in the area.
2. Exhibit A, page 3, bottom paragraph. The Board recommends that the words "for the principal use or uses" be inserted in the first line after the phrase, "Accessory parking spaces... ". This will clarify that the parking area required for the principal use of the property is required to be used by the occupants of the building.
3. Exhibits C & F. The Board finds that the proposed expansion of the permitted uses on the first floor of structures in the Cookman Avenue corridor to permit "Service" uses is inconsistent with the current Master Plan and CBD Redevelopment Plan. This type of use has been discussed at length by the Board in the past and the Board has consistently determined that these uses are not consistent with the Master Plan and the CBD Plan.
4. The Board finds that the other proposed amendments contained in Exhibits A, C, F & D are consistent with the City Master Plan and the CBD Redevelopment Plan.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the City of Asbury Park that the Board adopts the foregoing findings and recommendations and

hereby directs the Board Secretary to transmit these findings and recommendations to the Mayor and City Council for consideration in their deliberations on the proposed amendments.

Herbert Fehrenbach offered a motion to authorize the foregoing action of the Board which motion was seconded by Barbara Krzak.

The members of the Board who voted in favor of the foregoing motion are authorized to vote on the adoption of this Resolution. Those members are: Herbert Fehrenbach, Mayor John Moor, Councilwoman, Yvonne Clayton, Barbara Krzak, Sara Anne Towery, Jim Henry, Anthony Perillo and Trudy Syphax.

Ayes: *H. Fehrenbach, B. Krzak, A. Perillo, T. Syphax*

Nays:

Abstain: *Mayor John Moor*

Dated: *October 3, 2016*
~~September 3, 2016~~

Barbara Van Wagner
Barbara Van Wagner, Secretary

I certify this to be a true copy of a written Resolution adopted by the City of Asbury Park Planning Board on September 3, 2016.

Barbara Van Wagner
Barbara Van Wagner, Secretary



**Asbury Park, New Jersey
ORDINANCE NO. 2016-38**

**ORDINANCE OF THE CITY OF ASBURY PARK AUTHORIZING THE EXECUTION
OF A FINANCIAL AGREEMENT WITH AP BLOCK 176 VENTURE URBAN
RENEWAL LLC AND GRANTING A TAX EXEMPTION**

WHEREAS, the *New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.* (the “**Act**”) authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the Act confers certain contract, planning and financial powers upon a redevelopment entity, as defined in Section 3 of the Act, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the City of Asbury Park (the “**City**”), in the County of Monmouth, State of New Jersey, has elected to exercise these redevelopment entity powers directly, as permitted by Section 4 of the Act; and

WHEREAS, on June 5, 2002, the City adopted the “Asbury Park Waterfront Redevelopment Plan (Plan IV)” (as amended and supplemented from time to time, the “**Redevelopment Plan**”) with respect to the “Asbury Park Waterfront Redevelopment Area,” as defined in the Redevelopment Plan (the “**Redevelopment Area**”); and

WHEREAS, pursuant to the Act, including Section 8 thereof (*N.J.S.A. 40A:12A-8*), a municipality is permitted to contract with a redeveloper to undertake redevelopment projects pursuant to a redevelopment plan within an area in need of redevelopment, as all such terms are defined in the Act; and

WHEREAS, the City and Asbury Partners, LLC (the “**Master Developer**”) entered into that certain “Amended and Restated Redeveloper and Land Disposition Agreement” dated October 28, 2002 (as the same may be amended and supplemented in accordance with its terms, the “**Redeveloper Agreement**”); and

WHEREAS, in accordance with the Redeveloper Agreement and the Redevelopment Plan, AP Block 176 Venture Urban Renewal LLC (the “**Entity**”) intends to develop a mixed use sixteen (16) story structure as a condominium that will contain: approximately 128-130 residential units (the “**Residential Component**”); approximately 54-56 hotel rooms (the “**Hotel Component**”); approximately 21,928 square feet of ground floor retail space and approximately 11,837 square feet of commercial space on the upper levels, including a gym and office space related to uses in the Project (the “**Retail Component**”); and a parking garage with approximately 415 parking spaces (the “**Parking Component**”, and together with the

Residential Component, the Hotel Component, the Retail Component and related amenities and improvements, collectively, the “**Project**”) on property identified as Block 4002, Lot 1 on the official tax maps of the City and located in the Redevelopment Area (the “**Land**”); and

WHEREAS, the Entity has been qualified by the State of New Jersey 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.* (the “**LTTE Law**”), and was created for the development, operation and maintenance of the Project; and

WHEREAS, in order to improve the feasibility of the construction, operation and maintenance of the Project, on May 24, 2016, the Entity made application to the City requesting a long term tax exemption and financial agreement with respect to the Project (the “**Application**”) pursuant to the LTTE Law, which Application is on file with the City Clerk; and

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

WHEREAS, after review of the Application, the City Manager recommended that the Application be approved on such terms as set forth in a proposed form of financial agreement (the “**Financial Agreement**”) substantially in the form attached hereto as Exhibit A, and by this reference incorporated herein, as may be modified in consultation with counsel as set forth herein, and

WHEREAS, the City Council has reviewed the Application and the terms of the Financial Agreement, and wishes to approve the Application on such terms, subject to the designation of the Entity as a Subsequent Developer, as such term is defined in the Redeveloper Agreement, and the execution of an agreement with the Entity as a Subsequent Developer in accordance with the Redeveloper Agreement, which is expected to occur simultaneously herewith; and

WHEREAS, the City hereby finds that the relevant benefits of the Project to the redevelopment of the Redevelopment Area outweigh the costs, if any, associated with the tax exemption, and in fact increase City revenues over current levels by granting the long term tax exemption for the Project, which relevant benefits are further described in the Application and the Financial Agreement; and

WHEREAS, the City hereby determines that the assistance provided to the Project pursuant to the Financial 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,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the City Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey as follows:

I. GENERAL

The aforementioned recitals are incorporated herein as though fully set forth at length.

II. EXECUTION OF FINANCIAL AGREEMENT AUTHORIZED

(a) The Mayor is hereby authorized and directed to execute the Financial Agreement, substantially in the form as it has been presented to the City Council, and attached hereto as **Exhibit A**, subject to additions, deletions, modifications, or revisions deemed necessary and appropriate in consultation with counsel.

(b) The Clerk of the City is hereby authorized and directed, upon the execution of the Financial Agreement in accordance with the terms of Section II (a) hereof, 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 City upon such document.

(c) The City Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the City. In accordance with P.L. 2015, c. 247, within ten calendar days following the later of the effective date of this Ordinance or the execution of the Financial Agreement by the Entity, the City Clerk also shall transmit a certified copy of this Ordinance and the Financial Agreement to the chief financial officer of Monmouth County and to the Monmouth County Counsel for informational purposes.

III. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

IV. ACTION REGARDING FINANCIAL AGREEMENT

The Mayor is hereby authorized and directed to determine all matters and terms in connection with the Financial Agreement, all in consultation with the counsel to the City, and the manual or facsimile signature of the Mayor upon any documents shall be conclusive as to all such determinations. The Mayor, the City Manager, the Chief Financial Officer, the City Clerk and any other City official, officer or professional, including but not limited to, redevelopment counsel, bond counsel, the financial advisor and the auditor to the City, are each hereby authorized and directed to execute and deliver such documents as are necessary to facilitate the transactions contemplated hereby, and to take such actions or refrain from such actions as are necessary to facilitate the transactions contemplated hereby, in consultation with, as applicable, redevelopment counsel, bond counsel, the financial advisor and the auditor to the City, and any and all actions taken heretofore with respect to the transactions contemplated hereby are hereby ratified and confirmed.

V. AVAILABILITY OF THE ORDINANCE

A copy of this Ordinance shall be available for public inspection at the offices of the City.

VI. EFFECTIVE DATE

This Ordinance shall take effect according to law.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2016-38 which was finally adopted by the City Council at a meeting held on the 12 12th day of October, 2016

CINDY A. DYE
CITY CLERK

10/11/16 DRAFT

Record and Return To:

 Jennifer L. Credidio, Esq.
 McManimon, Scotland & Baumann, LLC
 75 Livingston Avenue
 Roseland, New Jersey 07068

Re: 1101 Ocean (Block 4002, Lot 1)

PREAMBLE

THIS FINANCIAL AGREEMENT (hereinafter "Agreement") is made on _____, 2016 by and between **AP BLOCK 176 VENTURE 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. (the "Tax Exemption Law") having its principal office c/o iStar, at 1100 Ocean Avenue, Asbury Park, New Jersey 07712 hereinafter, designated as the "Entity", and **THE CITY OF ASBURY PARK**, a municipal corporation of the State of New Jersey, hereinafter designated as the "City", having its principal office at One Municipal Plaza, Asbury Park, New Jersey 07712. The Entity and the City are sometimes collectively referred to as the "Parties".

RECITALS WITNESSETH

WHEREAS, the Entity wishes to have a tax exemption granted for an urban renewal project located at Block 4002, Lot 1 on the Official Tax Maps of the City. The project consists of the redevelopment of the former "Esperanza" site into a mixed use sixteen (16) story structure as a condominium containing the following components (each, a "Project Component"): (i) approximately 128-130 residential condominium units (the "Residential Component"); (ii) a boutique hotel containing approximately 54-56 sleeping rooms with related amenities and improvements including lobby, pool, deck area and bar (the "Hotel Component"); (iii)

Attachment: 1101 Ocean Ave Draft Financial Agreement (2016-38 : 1101 Ocean Ave Financial Agreement)

approximately 21,928 square feet of ground floor retail space and approximately 11,837 square feet of commercial space on the upper levels, including a gym and office space related to the uses in the Project (the "Retail Component"); and (iv) structured parking containing approximately 415 parking spaces (the "Parking Component"), all together with related amenities and improvements applicable to each Project Component as more fully described in the Entity's Application as hereinafter defined (hereinafter called the "Project"). The Entity will temporarily construct and use two (2) units in what is presently the Hotel Component as a sales office and/or model unit, both of which shall be converted into residential condominiums forming a portion of the Residential Component for sale and occupancy by residential purchasers/occupants prior to the issuance of a Certificate of Completion as further set forth in the Subsequent Developer Agreement, and

WHEREAS, the City does hereby grant its approval for the Entity to undertake and develop the Project upon the terms and conditions hereinafter set forth, and

WHEREAS, the Project will be developed in a redevelopment area of the City pursuant to the City's Waterfront Redevelopment Plan, which was adopted pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redevelopment Law"),

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

ARTICLE I - GENERAL PROVISIONS

Section 1.1 Governing Law

This Agreement shall be governed by the provisions of the Tax Exemption Law, being sometimes alternately referred to as the "Law" or the "Governing Law". It is expressly understood and agreed that the City expressly relies upon the facts, data and representations contained in the Application attached hereto as Exhibit 1 in granting the tax exemption provided in this Agreement.

Section 1.2 General Definitions

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

- i. Administrative Fee - The annual fee paid to the City by the Entity or, after transfer from the Entity, by the Owners of the various Units, as set forth at Section 4.1 and Section 8.2 hereof and Schedules 1, 2 and 3 attached hereto.
- ii. Allowable Net Profit - The amount arrived at by multiplying the Allowable Profit Rate by the Total Project Cost applicable to each Project Component or Unit in a Project Component pursuant to N.J.S.A. 40A:20-3(c).
- iii. Allowable Profit Rate – As to each Project Component, the greater of 12% or the percentage per annum arrived at by adding 1.25% 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 12% or the percentage per annum arrived at by adding 1.25% per annum to the interest rate per annum which the City determines to be the prevailing rate on mortgage financing on comparable improvements in Monmouth County. The provisions of N.J.S.A. 40A:20-3(b) are incorporated herein by reference.
- iv. Annual Service Charge - The amounts the Entity has agreed to pay the City in lieu of conventional taxation on the Project, as set forth in Article IV hereof and Schedules 1-4 attached hereto, which sum is in lieu of any taxes on the Improvements pursuant to the Governing Law. The Annual Service Charge (i.e. PILOT) applicable to the Project Components is equivalent to the Unpledged Portion of the Special Assessment applicable to the Project Components under the Special Assessment Agreement executed by the Entity and the City contemporaneously with this Agreement.

v. Annual Gross Revenue – The Governing Law defines gross revenue for each urban renewal entity as “annual gross revenue or gross shelter rent or annual gross rents as appropriate, and other income...” and provides that the financial agreement shall establish the method of computing gross revenue for the entity. For purposes of this Agreement, Annual Gross Revenue: (i) shall include, but not be limited to, annual gross room rental charges and other ordinary income received by the Entity and derived from or generated by the Improvements, and (ii) except to the extent that a court of competent jurisdiction shall, by a final, unappealable order determine otherwise, shall exclude condemnation or casualty awards, insurance proceeds, gains from sales, transfers, or assumption of the Land and/or the Improvements or any part thereof, proceeds of any financing or refinancing, or proceeds from any disposition of a partner or partner’s equity interest in the Entity. Annual Gross Revenue and Net Profit shall also exclude proceeds derived from the sale of any Unit in a Project Component.

vi. Applicant – The Entity which has been formed pursuant to the provisions of the Tax Exemption Law and has made the Application for a tax exemption under the Governing Law.

vii. Application - The document attached as Exhibit 1 which contains the general statement of the nature of the proposed Project, the description of the proposed Project with a statement of the estimated cost of said Project, tentative financial plan and such other information as is required by N.J.S.A. 40A:20-8.

viii. Auditor’s Report – An annual audited financial statement with respect to the Project, which shall be prepared in a manner consistent with generally accepted accounting principles and shall detail all items required by the Governing Law. The report shall be prepared and its contents certified by a certified public accountant who is licensed to practice that profession in and by the State of New Jersey.

ix. Certificate of Occupancy – A temporary or permanent certificate of occupancy issued by the City authorizing occupancy of the Improvements or any Project Component or any portion thereof, including any Unit, pursuant to N.J.S.A. 52:27D-133.

- x. County Share Constant – Shall mean 1.052631579.
- xii. Default - The failure of any Party bound by this Agreement to perform any obligation imposed on such Party within applicable notice and cure periods provided in this Agreement.
- xiii. Entity - The Parties agree that reference to the term "Entity" as used in this Agreement shall initially mean the Applicant and, upon the transfer of title to the Project, a Project Component or a Unit in a Project Component to a successor, shall mean such successor in title, as applicable.
- xiv. Improvements - Any building, structure, fixture or Project Component permanently affixed to the Land on which the Project is located.
- xv. In Rem Tax Foreclosure - A summary proceeding by which the City may enforce the lien for taxes or payments in lieu of taxes due and owing by a tax sale. Said foreclosure proceeding is governed by N.J.S.A. 54:5-1 et seq.
- xvi. Land – The land comprising the Property exclusive of any Improvements which may now exist or may hereinafter be constructed thereon.
- xvii. Land Taxes - The amount of taxes assessed on the value of the Land, exclusive of any improvements, pursuant to N.J.S.A. 54:4-1 et seq.
- xviii. Land Tax Payments – Quarterly payments of Land Taxes to be made on the generally applicable due dates for property taxes as determined by applicable law.
- xix. Law - The term "Law" or "Governing Law" shall refer to the Tax Exemption Law and all other relevant and applicable federal and state statutes, rules, regulations and municipal ordinances and resolutions consistent with and/or supplementing the requirements of the Law.
- xx. Limited Dividend Entity - An urban renewal entity conforming to the terms of N.J.S.A. 40A:20-3(b).
- xx. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the amount of the total real property taxes levied against the Property in the last full year in which

the Property was subject to conventional taxation, as escalated by the increase in the Municipal Purposes Tax Rate in each intervening year since the Property was last subject to conventional taxation.

xxi. Municipal Increase – In any given year shall mean the sum of one and the percentage increase in the Municipal Purposes Tax Rate from that of the prior year.

xxii. Municipal Purposes Tax Rate – Means the sum of (i) general municipal purposes tax rate for the City as determined by the Monmouth County Board of Taxation pursuant to N.J.S.A. 54:4-42, N.J.S.A. 54:4-45; N.J.S.A. 54:4-47, N.J.S.A. 54:4-48 and N.J.S.A. 54:4-49, and (ii) the municipal library tax rate, if and to the extent existing.

xxiii. Municipal Share – Shall be as defined in Section 4.1.

xxiv. Net Profit - The Annual Gross Revenue of the Entity less all operating and non-operating expenses and costs of the Entity, all determined in accordance with generally accepted accounting principles and the provisions of N.J.S.A. 40A:20-3(c).

xxv. Project - The use of the Property for the purposes described in the Recitals in this Agreement and the Application and as defined in N.J.S.A. 40A:20-3(e).

xxvi. Project Component – shall mean each of the Residential Component, the Hotel Component, the Retail Component and the Parking Component, including condominium units created within each Project Component and their respective interests in common and limited common elements of the Project.

xxvii. Pronouns – He, she or it shall mean the masculine, feminine or neuter gender, the singular, as well as the plural, as proper meaning requires.

xxviii. Property – The real property located in the City and identified on the official tax map of the City as Block 4002, Lot 1, including any Improvements constructed thereon.

xxix. Sales Price – If unsold shall mean

Condo Unit Type	SQ. FT.	Base Price	Unit Count
1 bed / 1 Bath	710	\$517,180	1

1 bed / 1.5 Bath	960	\$679,782	11
1 bed + Den / 2 Bath	1,135	\$842,708	11
2 bed / 2 Bath	1,418	\$1,258,633	66
2 bed / 2.5 Bath	1,716	\$1,263,350	2
2 bed + Den / 2.5 Bath	1,375	\$1,350,000	1
2 bed + Den (FL5 PH) / 3 Bath	2,637	\$2,310,012	1
3 bed / 3 Bath	1,913	\$1,616,749	29
3 bed (FL5 PH) / 3.5 Bath	2,761	\$2,418,636	1
PH	2,696	\$2,424,173	7

the sales prices set forth above; upon transfer in a bona fide arm's length sale transaction, as prescribed by N.J.S.A. 40A:20-14(a), shall mean the true consideration stated in a deed for a Unit, and upon a transfer other than a bona fide arm's length sale transaction, shall mean the market value at the time of such transfer as determined by the City's tax assessor.

xxx. Statutes - The laws of the State of New Jersey including N.J.S.A. 40A:20-1 et seq.

xxxi. Substantial Completion - The determination by the City that the Project, any Project Component or Unit within a Project Component is ready for occupancy and as further defined in N.J.S. A. 54:4-63.1 et seq. Issuance of a Certificate of Occupancy shall be conclusive proof of Substantial Completion.

xxxii. Tax Ratio – the ratio set by the Monmouth County Board of Taxation from time to time pursuant to N.J.S.A. 54:3-17 et seq., representing the relationship of the assessed value of the real property within the City to the market value of real property within the City.

xxxiii. Termination – The expiration of this Agreement or the prior termination of this Agreement by the Entity or the City as set forth herein.

xxxiv. Total Project Cost – Shall have the meaning set forth in N.J.S.A. 40A:20-3(h).

xxxv. Unit – Shall mean a condominium unit comprising of or within one of the Project Components.

Section 1.3 Exhibits Incorporated

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

Section 1.4 City Findings

Pursuant to the Law, the City finds that the tax exemption(s) granted pursuant to this Agreement will benefit the City and its citizens and enhance the prospects of the City's Waterfront Redevelopment Area. The City further finds the benefits of granting tax exemption(s) for the Project far outweigh its cost, if any, and that absent such tax exemption(s) the Project would not be undertaken. The Project is expected to assist in attracting residents, visitors and tourists to the City, result in new public infrastructure, provide substantial hotel occupancy tax revenues to the City, and create employment opportunities within the City. The tax exemption(s) will help to offset the extraordinary costs of developing and constructing the Project. The high costs associated with the development of the Project together with conventional real estate taxes would otherwise operate as a disincentive to the redevelopment of the Property, make the Project materially less competitive in the marketplace and frustrate the goals and objectives of the City's Waterfront Redevelopment Plan.

ARTICLE II - APPROVAL

Section 2.1 Approval of Tax Exemption

The City by execution of this Agreement has granted and does hereby grant its approval for tax exemption(s) for each of the Project Components to be developed and to be maintained under the provisions of the Law on the Property. Pursuant to the Law, upon Substantial Completion of each Project Component, or portion thereof, including but not limited to any Unit, that Project Component or relevant portion thereof or Unit therein shall be exempt from taxation during the Term of this Agreement, provided, however, that portion of the Land Taxes and Land Tax Payments that corresponds to the percentage interest in the common elements of the Project attributed to the Hotel Component, the Retail Component and the Parking Component shall

continue to be paid respectively by each such identified Project Component or Unit within such Project Component on the Land at all times during the Term of this Agreement. Pursuant to the Law, the Residential Component and its percentage interest in the common elements of the Project shall be exempt from the payment of Land Taxes and no Land Tax Payments shall be due or payable by owners of Units in the Residential Component of the Project.

Section 2.2 Approval of Entity

The City hereby approves of the Entity undertaking the Project. The Entity by execution of this Agreement hereby understands and agrees that it is obligated to comply and conform with the Governing Law and this Agreement and in all respects with Applicable Laws. A copy of the Entity's amended certificate of formation is included in the Application. A copy of the approval of the Department of Community Affairs is similarly included in the Application.

Section 2.3 Land Taxes

Subject to the provisions of Section 2.1 above, Land Taxes and Land Tax Payments shall continue to be made on the Land during the Term of this Agreement. The Entity (or, after transfer to a Unit owner, the Unit owner) shall be entitled to a credit against the Annual Service Charge with respect to the Hotel Component, the Retail Component and the Parking Component for Land Taxes paid by the Entity or such Unit owner in each of the last four (4) preceding quarterly installments.

Section 2.4 The Urban Renewal Entity

In accordance with N.J.S.A. 40A:20-3(g), the Entity shall be a Limited Dividend Entity subject to the profit limitations provided in the Governing Law. These profit limitations are specifically incorporated by reference in this Agreement, shall be applicable to this Agreement and shall be appropriately considered and followed in the Auditor's Report required to be prepared and delivered under this Agreement.

In accordance with N.J.S.A. 40A:20-14(b), there is expressly excluded from the calculation of Annual Gross Revenue and Net Profit as defined in the Law and this Agreement, any gain

realized by the Entity on the sale of any Unit in the Project, whether or not taxable under federal or state law.

In accordance with N.J.S.A. 40A:20-15, whenever the Net Profit of the Entity for the period taken as one accounting period, commencing on the date on which the construction of the Project is substantially completed and terminating at the end of the last full fiscal year of the Term, shall exceed the Allowable Net Profit for the period, the Entity shall pay the excess Net Profits to the City as an additional service charge within 120 days of the close of that fiscal year. The payment of such excess Net Profit shall be in addition to, and not limited by, the Annual Service Charges due hereunder as set forth at Article IV hereof and Schedules 1-4 attached hereto.

Notwithstanding anything herein to the contrary, the Entity may maintain, during the Term of this Agreement, a reserve against vacancies, unpaid rentals and contingencies in an amount not to exceed 10% of the Annual Gross Revenue of such Entity for the last full fiscal year, and may retain such part of those excess Net Profits as is necessary to eliminate a deficiency in that reserve. Upon Termination of this Agreement, the amount of reserve, if any, shall be paid to the City within 90 days of such Termination.

The Entity shall not make, declare or pay any profit, distribution or emolument of any kind to its principals, stockholders, members, partners, etc. in contravention of N.J.S.A. 40A:20-15.

The Entity shall comply with the requirements of the Governing Law. All the organizational papers and documents regarding the formation/creation of the Entity have been forwarded to and approved by the State Department of Community Affairs. Unless this Agreement has been Terminated, any subsequent purchaser of the Project shall be fully subject to this Agreement. Unless this Agreement has been Terminated, deeds made by the Entity to a purchaser of the Project, a Project Component or a Unit, and leases made by the Entity to a lessee of the Project or a Unit or Units in a Project Component shall reflect the existence of this Agreement as an encumbrance on title.

The Entity shall have the powers and authority reflected in N.J.S.A. 40A:20-6 and 7 and all of the rights provided in the Governing Law. The Entity will construct the Project in accordance with permits and approvals for the Project.

Section 2.5 Ownership, Management and Control

The Entity is the designated redeveloper of the Property and shall develop, operate and manage the Project. The Entity has acquired title to the Property. The Entity may lease the Property, any Project Component and/or any condominium or sub-condominium unit in a Project Component to an affiliate or another related or unrelated party which may, in turn, operate all or parts of the applicable Project Component, provided, however, that all obligations of the Entity hereunder shall remain obligations of the Entity notwithstanding any such lease or agreement, and further provided however, that no such lease or agreement with an affiliate or related party shall operate to minimize or remove revenues properly includable in the calculation of Annual Gross Revenue.

ARTICLE III - DURATION OF AGREEMENT

Section 3.1 Term

Absent Termination of this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for thirty (30) years from the commencement thereof (the "Term"). The Term shall commence with respect to the Residential Component on the first day of the first month following the date of Substantial Completion of each residential unit in the Residential Component. With respect to each of the Hotel Component, Retail Component and Parking Component, the Term shall commence on first day of the first month following the date of Substantial Completion of each respective Component or Unit within such Component of the Project, as set forth in Article IV below, provided that, if a portion of the Hotel Component, Retail Component or Parking Component has reached Substantial Completion, the Term shall commence and Annual Service Charge shall begin to be due, with respect to such portion (if such portion is not a Unit, then the portion shall be determined as a fraction of the square footage of

the applicable Project Component) on a pro rata basis. Upon expiration of the Term, the tax exemption for each Project Component or relevant portion thereof shall expire and the Improvements related to the particular Project Component shall thereafter be assessed and taxed pursuant to N.J.S.A. 54:4-1 et seq. Notwithstanding the foregoing, the Term applicable to any Project Component or portion thereof shall not extend for more than thirty-five (35) years from the date that this Agreement is executed by the Parties.

Section 3.2 Purpose and Benefits of Agreement

- A. Relative Benefits of the Project when compared to the costs:
 - i The current real estate taxes on the Land and the current Improvements thereon generate revenue of approximately \$156,910.00 per annum.
 - ii The Annual Service Charge applicable to all Project Components is anticipated to provide annual net revenue to the City of approximately \$2,000,000.00 following Substantial Completion of all Project Components.
 - iii The Project will provide revenue to the City in an amount which is substantially greater than the amount the City would have received if conventional taxation had remained in effect with respect to the Property.
- B. Assessment of the Importance of the Tax Exemption/Abatement in obtaining development of the Project and influencing the locational decisions of probable occupants:
 - i Without the exemption, the Project is not financially feasible or viable;
 - ii The exemption permits better use of land and the construction of needed ratables; and
 - iii The exemption permits private development in the City's Waterfront Redevelopment Area consistent with the City's Waterfront Redevelopment Plan.
- C. By the adoption of Ordinance No. _____ on _____, 2016, attached to this Agreement as Exhibit 2, the Mayor and City Council approved the above findings and those contained in Section 1.3, the Entity's Application and authorized the execution of this

Agreement. The execution of this Agreement was also authorized by the State of New Jersey's Director of Local Government Services on _____, 2016, pursuant to that certain Memorandum of Agreement between the City and the Division of Local Government Services.

ARTICLE IV - ANNUAL SERVICE CHARGE

Section 4.1 Annual Service Charge — N.J.S.A. 40A:20-14

A. In consideration of the exemption from taxation for the units within the Residential Component of the Project, the Entity and each successor owner, of a unit in the Residential Component, as applicable, shall, during the Term of this Agreement, make payment to the City of an Annual Service Charge for municipal services supplied to the Project which shall be:

1. Beginning on the first day of the first month after Substantial Completion of a unit in the Residential Component and prior to the initial transfer of such unit, the greater of (i) the Minimum Annual Service Charge or (ii) the Sales Price for such unit multiplied by the Tax Ratio multiplied by the Municipal Purposes Tax Rate divided by 100 multiplied by the County Share Constant. Capitalized terms used in clauses (i) and (ii) above and paragraphs 2, 3, and 4 below have the meaning ascribed to them in the Special Assessment Agreement unless otherwise provided in this Agreement.

2. In the first year following the initial transfer of title to a unit in the Residential Component, the greater of (i) the Minimum Annual Service Charge or (ii) the Sales Price multiplied by the Tax Ratio multiplied by the Municipal Purposes Tax Rate divided by 100 multiplied by the County Share Constant.

3. In each following year:

(i) in which the City is reporting 100% of value to the Monmouth County Tax Board, the greater of (i) the Minimum Annual Service Charge or (ii) the value assigned to the Unit by the Tax Assessor multiplied by the Municipal Purposes Tax Rate divided by 100 (the

“Municipal Share”) multiplied by the Tax Ratio multiplied by the County Share Constant.

- (ii) In which the City is not reporting 100% of value to the Monmouth County Tax Board, the greater of: (i) the Minimum Annual Service Charge or (ii) the prior year Municipal Share multiplied by the Municipal Increase multiplied by the County Share Constant.

4. The Annual Service Charge shall be calculated from the first day of the month following the determination by the City of Substantial Completion of each unit in the Residential Component of the Project in the manner set forth herein.

5. During the Term, the City shall remit five (5%) percent of the Annual Service Charge received by it to the County of Monmouth upon the City’s receipt of same.

6. The Administrative Fee further described at Section 8.2 hereof shall constitute an additional Annual Service Charge.

7. In the event that the exemption of Land Taxes provided in Sections 2.1 and 2.3 hereof, and authorized by N.J.S.A. 40A:20-12, is invalidated by a court of competent jurisdiction, the Parties agree that this Agreement shall remain valid and in full force and effect, and the calculation of the Annual Service Charge herein shall be reformed as follows:

In addition to the Annual Service Charge calculated pursuant to Section 4.1 A. 1-3 above, as applicable, the Annual Service Charge shall be increased by the Land Taxes due multiplied by the County Share Constant. In the event that Land Taxes become due and neither the Entity nor its successors have waived the credit with respect to same set forth at N.J.S.A. 40A:20-12, the City will apply the statutory credit to the Annual Service Charge due from the Entity or any successor owner as applicable.

B. In consideration of the exemption from taxation for the Hotel Component, Retail Component and Parking Component of the Project, the Entity and each successor owner of a unit within any of such referenced Project Components shall during the Term of this Agreement make

payment to the City of an Annual Service Charge for municipal services supplied to the respective Project Component for municipal services supplied to such Project Component which shall be:

1. In the period beginning on the first day of first month after Substantial Completion of each of the Hotel Component, Retail Component and Parking Component and continuing thereafter during the Term, those amounts set forth on Schedules 2, 3 and 4 respectively attached hereto;

2. The Entity and each successor owner of a unit within the Hotel Component, Retail Component and Parking Component shall pay the Administrative Fee, as set forth on Schedules 1, 2 and 3 attached hereto to the City annually in addition to the applicable Annual Service Charge;

3. The Entity and each successor owner of a unit within the Hotel Component, Retail Component and Parking Component shall be entitled to a credit against the Annual Service Charge which such owner is obligated to pay for the amount of the Land Tax Payments made in the last four (4) preceding quarterly installments;

4. Subject to the provisions of Section 3.1 hereof, the Annual Service Charge shall be calculated from the first day of the month following the determination by the City of Substantial Completion of each of the Hotel Component, the Retail Component and the Parking Component in the manner set forth herein; and

5. During the Term, the City shall remit five (5%) percent of the Annual Service Charge received by it to the County of Monmouth upon the City's receipt of the same.

Section 4.2 Quarterly Installments

Payment of the Annual Service Charge(s) required under this Agreement shall be made in quarterly installments on those dates when ad valorem real estate tax payments to the City are due subject, nevertheless, to adjustment for over or underpayments within thirty (30) days after the close of each calendar year. In the event that the Entity or Unit owner fails to timely pay the

Annual Service Charge, the amount remaining due and unpaid shall accrue interest at the rate applicable for unpaid real property taxes.

Section 4.3 Pro Rata Basis of Annual Service Charge

The Annual Service Charge with respect to the units in each Project Component for the year in which such unit is Substantially Completed shall be adjusted on a pro rata basis from its commencement to the close of such calendar year. For the year in which Termination of this Agreement as to a Project Component or unit within a Project Component occurs, the Annual Service Charge shall be similarly pro-rated. To the extent that a portion of a Project Component is Substantially Completed prior to Substantial Completion of the entire Project Component, the Annual Service Charge shall be pro-rated as further described in Section 3.1 hereof.

Section 4.4 Annual Service Charge Following Termination

The Entity or any owner of a Project Component or unit within a Project Component may terminate this Agreement prior to the expiration of the Term upon thirty (30) days' written notice to the City. This Agreement may also be terminated by the City in accordance with Section 19.1 below. After Termination of this Agreement with respect to the Project, Component of the Project or unit within a Project Component, the real property which is the subject of the Termination shall thereafter be assessed and taxed as conventional real property.

Section 4.5 During Construction

During the period between execution of this Agreement and the Substantial Completion of each Project Component and the units within such Project Component, the Entity shall make payment of conventional real estate taxes with respect to the Land and the Improvements existing thereon as of the date of approval of this Agreement, at the times and to the extent due in accordance with generally applicable law.

Section 4.6 Special Provisions Regarding the RAB Law

As a consequence of certain separate agreements implemented by City ordinances and resolutions, the City has agreed that the cost of installation of infrastructure and related expenses

required for the development of the Project is being financed by the City's issuance of bonds pursuant to the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 et seq. (the "RAB Law"). Such improvements are also subject to a special assessment (the "Special Assessment"). Therefore, acting in accordance with N.J.S.A. 40A:12A-66, the City and the Entity have agreed that the Annual Service Charge imposed on the Project Components has been determined in a manner that complies with the RAB Law. Accordingly, the terms of N.J.S.A. 40A:20-12(b)(2) requiring a specified minimum and maximum Annual Service Charge and staged increases in the Annual Service Charge shall not apply during the Term of this Agreement.

In addition, acting in accordance with N.J.S.A. 40A:12A-66, the City and the Entity have agreed that the Annual Service Charge imposed on the Units in the Residential Component of the Project has been determined in a manner that, at the time of the initial transfer of title of a Unit from the Entity to a Unit purchaser: (i) yields to the City the amount of the revenue that the City would have received (net of taxes payable to the county and for board of education purposes) had conventional taxation remained applicable to such Units; and (ii) the Special Assessment (including the Annual Service Charge) due on each Unit will not exceed the amount of conventional taxes that would have been due on each Unit had conventional taxation remained applicable to such Unit.

Section 4.7 Leases

Any lease between the Entity or the owner of a Project Component or Unit within a Project Component and a tenant shall not require the City's consent or approval, may require that a tenant pay all or part of the applicable Annual Service Charge or Minimum Annual Service Charge provided that no such requirement will relieve the Entity or the owner of a Project Component or Unit within a Project Component of such obligations under this Agreement unless agreed to by the City, and further provided that any such lease is in compliance with Section 2.5 of this Agreement.

ARTICLE V - DISPUTE RESOLUTION

Section 5.1 Arbitration

In the event of a breach of the this Agreement, (other than a payment default), or a dispute arising between the Parties in reference to the terms and provisions as set forth herein, either Party shall submit the dispute to arbitration, which shall utilize New Jersey law and the arbitration rules of the American Arbitration Association, to be resolved in accordance with such law, rules and regulations in such a fashion as to accomplish the purposes of the Governing Law and this Agreement. The cost of the arbitration shall be borne equally by the Parties.

The Parties shall determine whether one arbitrator or a panel of three arbitrators will determine the dispute. An arbitrator shall be mutually acceptable to the Parties and shall have the following qualifications: (i) an attorney at law or other professional of the State of New Jersey, with no less than fifteen years' experience, and whose expertise is in redevelopment projects utilizing the Governing Law; or (ii) any other qualifications mutually acceptable to the Parties. In the event that the Parties cannot agree on the selection of the arbitrator(s), then the dispute shall be arbitrated by a panel of three arbitrators, with each Party selecting one arbitrator, and those two arbitrators selecting the third arbitrator.

The arbitrator(s) shall make written findings of fact and conclusions with respect to compliance with the Governing Law. Any arbitration award may be appealed by either Party to the New Jersey Superior Court, Law Division, with respect to asserted errors of fact or law, and the outcome of such appeal may be further appealed in the New Jersey courts, and shall not be limited in any way due to the origin of the action in arbitration.

In the event of a default in payment of the Annual Service Charge as defined in Article IV, above, the City, among its other remedies, reserves the right to proceed against the portion of the Property to which the default applies, in the manner provided by N.J.S.A. 54:5-1 et seq., irrespective of any Arbitration proceeding and any act supplementary or amendatory thereof. Whenever the word taxes appears or is applied directly or impliedly to mean taxes or municipal

liens on land such statutory term shall be read, as far as pertinent to this Agreement, as if the Annual Service Charge constitutes taxes or municipal liens on land. In such event, however, the Entity does not waive any defense it may have to contest the right of the City to proceed in the above-referenced manner.

ARTICLE VI - CERTIFICATE OF OCCUPANCY

Section 6.1 Certificate of Occupancy

It is understood and agreed that it shall be the obligation of the Entity to Substantially Complete the Project Components and to obtain Certificates of Occupancy for the Project Components and/or Units within such Components at the time that such portions of the Project are eligible therefor.

Section 6.2 Substantial Completion

The Annual Service Charge applicable to a Project Component or a Unit within a Project Component is to commence from the first day of the month following the Substantial Completion of a Project Component or a Unit with such Project Component. The Annual Service Charge shall become payable upon the Substantial Completion of a Project Component or a portion thereof, as further described at Section 3.1, regardless of whether the Project Component or Unit within the Project Component is occupied or tenanted.

Section 6.3 Filing of Certificate of Occupancy

It shall be the responsibility of the City to forthwith file with and or submit to the Tax Assessor of the City a copy of the Certificate(s) of Occupancy issued with respect to the Project.

Failure of the City to file or submit such issued Certificate(s) of Occupancy, as required by the preceding paragraph, shall not restrict the City's Tax Assessor from taking appropriate action.

The estimated cost data disclosed by the Application submitted by the Entity with this Agreement may at the option of the City's Building Department be used as the basis for construction cost determinations applicable to the issuance of building permits(s) for the Project.

ARTICLE VII - ANNUAL AUDITS

Section 7.1 Accounting System

The Entity agrees to maintain a system of accounting and internal controls required for proper record control under this Agreement. The requirements for submission of periodic reports by the Entity, including, without limitation, any Auditor's Reports except for a final accounting required by the Law, shall cease in those instances where the Entity no longer has an interest in the Project as evidenced by recorded deeds, and, as to the Residential Component, when the Entity has sold all of the Units in the Residential Component or, except as required by the Governing Law, following Termination of this Agreement.

Section 7.2 Periodic Reports

Within ninety (90) days after the close of each fiscal or calendar year, depending on Entity's accounting basis for the duration of this Agreement, (taking into account Section 7.1), the Entity shall submit an Auditor's Report certified by a certified public accountant for the preceding fiscal or calendar year to the City's Chief Financial Officer and the City Clerk, and the Director of the New Jersey Division of Local Government Services. The Auditor's Report shall conform to all applicable standards of the Tax Exemption Law and shall include the following data:

Annual Gross Revenue data, Net Profits, excess profits, principal amount and the interest rate of any mortgage(s) constituting a lien on the Property and such details as may relate to the financial affairs of the Entity and to its operation and performance hereunder, as are required pursuant to the Governing Law and this Agreement.

Failure of the Entity to submit the reports required by this Article VII shall subject the Entity to a fine, payable to the City, commencing on the 91st day after such report is due, in the amount of \$100 per day for each day after the 90th day that such report is not filed.

Section 7.3 Total Project Cost/Project Sales or Leases

Within ninety (90) days after the last Certificate of Occupancy is issued for the Project, the Entity shall submit to the City a certification of Total Project Cost. Such certification shall not affect

the calculation of Annual Service Charges under this Agreement, as set forth at Article IV hereof and the Schedules hereto. When any Project Component or any Unit in such Project Component is sold or leased by the Entity, all relevant data regarding such sale or lease shall be submitted to the City Clerk and City Tax Assessor.

Section 7.4 Inspection

The Entity shall permit upon proper request an inspection of property, equipment, buildings and other facilities of the Project as well as an examination and audit of the books, contracts, records, documents and papers by representatives duly authorized by the City or the New Jersey Division of Local Government Services in the Department of Community Affairs. Such examination or audit shall be made following reasonable advance notice during business hours and shall be conducted in the presence of any officer or agent of the Entity to which the examination or audit relates.

ARTICLE VIII - APPLICATION AND ADMINISTRATIVE FEE

Section 8.1 Application Fee

The Entity has paid the sum of \$5,000.00 to the City as a fee for processing the Application.

Section 8.2 Administrative Fee

The Entity acknowledges and agrees that, in addition to the payment of the respective Annual Service Charge required to be paid by a Project Component or Unit within a Project Component, an annual Administrative Fee to the City shall be payable. The annual Administrative Fee shall be 2% of the applicable Annual Service Charge in each year, which for: (i) the Residential Component shall be calculated in accordance with Section 4.1 hereof; and (ii) the Hotel Component, Retail Component and Parking Component shall be as set forth on Schedules 1, 2 and 3 attached hereto, and pro-rated among Units within such Project Components. For purposes of enforcement of collection against the owner of a Project Component or Unit within a

Project Component responsible for payment of the Annual Administrative Fee, such payments shall be considered to be an additional part of the applicable Annual Service Charge. The Administrative Fee shall be payable and due on or before December 31st of each year with interest accruing for late payments in accordance with the standards applicable to the applicable Annual Service Charge.

ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION

Section 9.1 Assignment

The Entity may assign its rights under this Agreement with the prior written consent of the City, which consent will be granted provided (a) the new entity is an urban renewal entity formed pursuant to the Governing Law; (b) at the time of such assignment, the new entity is or has agreed to become the fee owner of the Project and has agreed in writing to undertake any remaining construction and completion of the Project; (c) the new entity does not own any other Project subject to a long term tax exemption at the time of transfer; (d) the assignor Entity is not then in Default of this Agreement; (e) the assignor Entity's obligations under this Agreement are fully assumed by the new entity; (f) the new entity shall have demonstrated to the City's reasonable satisfaction its financial capability and experience; and (g) the assignor Entity shall pay the City a transfer fee equal to two percent (2%) of the then current Annual Service Charge as required by N.J.S.A. 40A:20-10(d). Upon the transfer of this Agreement to an assignee in compliance with this Agreement, the Entity shall be discharged from any further obligation with respect to the Project. Voluntary transfers of more than ten (10%) percent of the ownership of the Project or any portion thereof shall be subject to N.J.S.A. 40A:20-5e. Nothing contained in this Agreement shall prohibit transfers of interests in the Entity itself provided that notice of the transfer, if greater than ten (10%) percent, shall be provided to the City in accordance with N.J.S.A. 40A:20-5e.

For the avoidance of doubt, the parties hereby acknowledge that any assignment of this Agreement in conjunction with a transfer of a Project Component or Unit within a Project Component from the Entity (other than the sale of Units in the Residential Component) shall be

an assignment that requires consent of the City pursuant to the provisions of this Section. The parties further hereby acknowledge that a transfer of a Project Component from the Entity (other than the sale of Units in the Residential Component) without such an assignment of this Agreement shall terminate the exemption with respect to such Project Component or Unit within a Project Component.

Section 9.2 Deed Recitals

While this Agreement remains in effect, deeds for the Project Components or Units within such Project Components shall include a recital that (a) the grantee is subject to the terms and conditions of this Agreement, and (b) this Agreement runs with the land for the duration of this Agreement and that by accepting this deed, the grantee acknowledges it has received from the Entity a true copy of this Agreement, the originals of which may be examined by the grantee in the Office of the City Clerk during regular working days and hours.

Section 9.3 Operation of Project

The Entity agrees that the Project shall be constructed, managed and operated in accordance with applicable laws, including the New Jersey Condominium Act N.J.S.A. 46:88-1 et seq. The Entity hereby agrees at all times prior to the Termination this Agreement to remain bound by the provisions of this Agreement with respect to Project Components or Units within Project Components that are owned by the Entity. Upon any sale of the Project, any Project Component or Unit in a Project Component and/or the assignment and assumption of this Agreement, the successor in title shall be similarly bound and, if such transfer, sale, assignment and/or assumption shall be in compliance with the terms of this Agreement, the Entity shall be relieved and discharged from any obligation or liability with respect to such Project Component or Unit within such Project Component.

ARTICLE X - INTENTIONALLY OMITTED

ARTICLE XI - RECORDING

Section 11.1 Recordation of Agreement

The City shall record at the Entity's expense a fully signed original of this Agreement with the office of the Monmouth County Clerk.

ARTICLE XII - WAIVER

Section 12.1 Waiver

Nothing contained in this Agreement shall constitute a waiver or relinquishment by either the Entity or the City of any rights and remedies, including, without limitation, the City's right to terminate this Agreement and the tax exemption granted hereunder for a particular Project Component or Unit within a Project Component for an uncured Default applicable to such Project Component or Unit within a Project Component under any of the terms provided herein. Nothing herein shall be deemed to limit any right of recovery of any amount which the City or the Entity has under law, in equity, or under any provisions of this Agreement.

ARTICLE XIII - NOTICES

Section 13.1 Sent by City

When sent by the City to the Entity notices shall be addressed to AP BLOCK 176 VENTURE URBAN RENEWAL LLC, c/o iStar, 1100 Ocean Avenue, Asbury Park, NJ 07712, Attention: Brian Cheripka, Senior Vice President, unless, prior to the giving of notice, the Entity shall have notified the City otherwise in writing.

Upon the transfer of title to any Project Component or Unit within a Project Component, notice shall be sent to the new owner at the Project or to the address for the new owner on the last tax duplicate of the City unless written notice of a different address was provided to the Tax Assessor and Tax Collector of the City.

Section 13.2 Sent by Entity

When sent by the Entity to the City, notice shall be addressed to the City Clerk, Mayor and City Manager at City Hall, One Municipal Plaza, Asbury Park, New Jersey 07712, unless, prior to

the giving of notice, the City shall have notified the Entity otherwise in writing. The notice to the City shall identify the subject and property to which it relates.

Section 13.3 Delivery of Notices

Any notice required hereunder to be sent by either Party to the other shall be sent by a nationally recognized overnight courier service or by certified or registered mail, return receipt requested, addressed as specified above.

ARTICLE XIV - INTENTIONALLY OMITTED

ARTICLE XV - CONSTRUCTION/ENFORCEMENT

Section 15.1 Applicable Law

This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey.

ARTICLE XVI - WASTE AND REFUSE DISPOSAL

Section 16.1 Responsibility of Entity

Unless the City otherwise agrees, collection and disposition of all solid waste, refuse and recyclables emanating from the Project shall be the exclusive responsibility of the Entity prior to the filing of the master deed creating the condominium and thereafter by the condominium association or owner of a Project Component or the owner of the Unit in a Project Component, but in no event shall be the responsibility of the City. The Entity or other responsible party shall engage a licensed collector, hauler or scavenger at the Entity's (or other responsible party's) cost and expense to collect and dispose such waste and recyclables.

ARTICLE XVII - INDEMNIFICATION

Section 17.1 Defined

It is understood and agreed that, in the event the City shall be named as a party defendant in any action brought against the Entity by reason of any breach, default or a violation of any of the provisions of this Agreement and/or the provisions of N.J.S.A. 40A:20-1 et seq., by the Entity, the Entity shall indemnify and hold the City harmless, and the Entity agrees to defend the suit at

its own expense. However, the City maintains the right to intervene as a party thereto, to which intervention the Entity hereby consents. The expense of such intervention thereof shall be borne by the City.

ARTICLE XVIII - DEFAULT

Section 18.1 Default

“Default” shall mean and be the failure of the Entity or, as applicable, the successor owner of a Project Component or Unit within a Project Component (“Responsible Party”) to perform its obligations under this Agreement after notice and within applicable cure periods provided in this Agreement.

Section 18.2 Curing A Default

Should a Responsible Party be in Default in the payment or performance of its obligations under this Agreement, the City shall notify such Responsible Party of said Default. Said notice shall set forth with particularity the basis of the alleged default. The Responsible Party shall have 90 days to cure any Default, except for a payment Default, which the defaulting party shall have 10 days to cure. If any non-payment Default cannot be cured within the cure period then, provided that diligent cure efforts are being prosecuted, the period for cure shall be extended for an additional 90 days after which this Agreement may be terminated. Assuming that a condominium regime has been established with respect to the Project, the Agreement may be terminated solely in respect of the Project Component or Unit in the Project Component owned by the Responsible Party to which the Default applies in accordance with the Governing Law.

Section 18.3 Remedies Upon Default

The City shall, among its other remedies, have the right to proceed against the Property, Project Component or Unit within the Project Component, as applicable, which is the subject of the Default pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1 et seq. All of the remedies provided in this Agreement to the City and all rights and remedies granted to it by law and equity shall be cumulative and concurrent but shall, assuming that a condominium regime has been

established with respect to the Project, be applied solely against the Project Component or Unit within the Project Component to which the Default applies. Further, the bringing of any action for any unpaid charges due to the City under this Agreement, the Annual Service Charge, or for breach of any covenant or the resort to any other remedy herein provided for shall not be construed as a waiver of the right of the City to terminate the tax exemption as to the Project, or assuming that a condominium regime has been established with respect to the Project, against Project Component or Unit within the Project Component which is the subject of the Default.

Section 18.4 Force Majeure

The following shall constitute "Force Majeure Events": an enforced delay in the performance of obligations of a party to this Agreement arising from causes beyond that party's reasonable control and without its fault or negligence, including, but not restricted to, acts of God, acts of the public enemy, acts or omissions of the other parties (including litigation by third parties), fires, floods, epidemics, quarantine restrictions, freight, energy shortages, embargoes, unusual or severe weather, or delays of contractors, subcontractors or material suppliers due to any of the foregoing such causes. To the extent permitted by law, notwithstanding any contrary term or provision of this Agreement, other than a payment Default, neither Party shall be liable to the other for failure to perform its obligations under this Agreement for causes beyond the control of the Party whose performance is required.

ARTICLE XIX - TERMINATION

Section 19.1 Termination Upon Default of the Entity

In the event that the Responsible Party fails to cure or remedy a Default within the time period provided in Section 18.2, the City may terminate this Agreement. Assuming that a condominium regime has been established with respect to the Project, the City may terminate this Agreement solely with respect to the Project Component or Unit within the Project Component to which the Default applies upon 30 days' written notice to the Responsible Party. For purposes of the Entity or Responsible Party rendering a final financial accounting, the Termination of this

Agreement shall be deemed to be the end of the fiscal year for the Entity or Responsible Party. The Entity or Responsible Party shall within 90 days after the date of such Termination, pay to the City a sum equal to the amount of the reserve, if any, maintained pursuant to N.J.S.A. 40A:20-13 and N.J.S.A. 40A:20-15 as well as the excess profit, if any, payable under this Agreement. The Termination date of this Agreement shall be deemed to be the end of such Entity's or other Responsible Party's fiscal year.

Upon such termination of the exemption for the Project, a Project Component or Unit within a Project Component, all affected properties and all improvements made thereto shall be assessed from the date of termination under conventional real property taxation principles.

ARTICLE XX - MISCELLANEOUS

Section 20.1 Conflict

The Parties agree that in the event of a conflict between the Application and this Agreement, this Agreement shall govern and control. The Governing Law shall supersede any conflict between its terms and this Agreement provided that the Governing Law shall be interpreted and applied in a manner consistent with the terms of the RAB Law.

Section 20.2 Oral Representations

There have been no oral representations made by any of the Parties hereto which are not contained in this Agreement. This Agreement, the City's Ordinance approving this Agreement, the Application, that certain Subsequent Developer Agreement by and between the Parties to be executed and delivered contemporaneously with this Agreement, and that certain Special Assessment Agreement by and between the Parties to be executed and delivered contemporaneously with this Agreement, constitute the entire Agreement between the Parties, and there shall be no modifications hereto other than by a written instrument executed and delivered by the Parties. In the event of a conflict between this Agreement and the Subsequent Developer Agreement and/or the Special Assessment Agreement, this Agreement shall control.

Section 20.3 City's Ordinance

The City's Ordinance approving this Agreement is incorporated in this Agreement and a made part hereof as Exhibit 2.

Section 20.4 Good Faith

The covenants of good faith, fair dealing and implied necessity are deemed incorporated into and made a part of this Agreement.

Section 20.5 Grammatical Usage

The bracketing of the letter "s" at the end of a word such as unit(s) shall mean the singular or plural as proper meaning requires and all related verbs and pronouns shall be made to correspond.

Section 20.6 Tentative Financial Plan

A financial plan and detailed representations and covenants by the Entity conforming to N.J.S.A. 40A:20-9 for the undertaking of the Project is included in the Application. The Entity represents that it will diligently attempt to construct the Project in accordance with the information contained in the Application and the terms of the Subsequent Developer Agreement.

Section 20.7 Condominium Sales

The City expressly agrees and consents to the sale of the Project Components or Units within a Project Component to purchasers upon the filing of the master deed for the Project and to their successors and assigns and that upon the transfer of title to a Project Component or Unit in a Project Component by the Entity to a third party purchaser in accordance with the terms of this Agreement, the Entity's obligations under this Agreement with respect to such Project Component or Unit within a Project Component shall cease, the tax exemption granted hereby and all obligations related thereto shall continue and inure to and bind each successor in title to the Entity notwithstanding that such persons are not urban renewal entities pursuant to the Governing Law. The proceeds of the sale of any Unit in a Project Component shall not be included in the Annual Gross Revenue or Net Profit of the Entity or its successors or assigns.

Section 20.8 Payment of Other Fees for Municipal Services

To the extent that the City collects fees from property owners for the provision of certain services provided by the City or its agents, the Entity or other Responsible Party agrees to make payments for such municipal services, including without limitation water and sewer charges and connection fees, if and to the extent applicable, and any services that create a lien on parity with or superior to the lien for the Land Taxes and Annual Service Charges, as required by law. Nothing herein is intended to release the Entity or other Responsible Party from its obligation to make such payments.

Section 20.9 Severability

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

If any portion of this Agreement shall be judicially declared to be invalid and unenforceable and provided that a default has not been declared pursuant to this Agreement, the Parties shall cooperate with each other to take the actions reasonably required to restore the Agreement to the manner and economic effect 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.

Section 20.10 Certification

The City shall certify to the City Tax Assessor, pursuant to the Governing Law, that this Agreement entered into by the City and the Entity has been lawfully entered into and is in effect pursuant to the Governing Law. The delivery by the City to the City Tax Assessor of a certified copy of the Ordinance shall constitute the required certification. Upon the delivery of the certification as required hereunder, the City Tax Assessor shall implement the tax exemption and continue to enforce the tax exemption without further certification by the City until the Termination

of this Agreement. Further, upon the adoption of this Agreement, the Ordinance shall be transmitted to the Director of the New Jersey Division of Local Government Services in the Department of Community Affairs by the City.

Section 20.11 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 City shall issue a signed estoppel certificate in reasonable form stating that (i) this Agreement is in full force and effect, (ii) to the best of the City's knowledge, no Default has occurred under this Agreement (nor any event which, with the passage of time and 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 be identified with reasonable detail.

Section 20.12 Exhibits and Schedules

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

Schedule 1 – Annual Service Charge Payments (Hotel Component)
 Schedule 2 – Annual Service Charge Payments (Retail Component)
 Schedule 3 – Annual Service Charge Payments (Parking Component)

Exhibit 1 - The Application
 Exhibit 2 – Ordinance authorizing the execution of this Agreement

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

AP BLOCK 176 VENTURE URBAN
 RENEWAL LLC

 Name: Brian Cheripka, Senior Vice
 President
 An Authorized Officer

THE CITY OF ASBURY PARK

 John Moor, Mayor

[SEAL]

ATTEST:

 Cindy A. Dye, RMC, City Clerk

Attachment: 1101 Ocean Ave Draft Financial Agreement (2016-38 : 1101 Ocean Ave Financial Agreement)

STATE OF NEW JERSEY,
COUNTY OF MONMOUTH

SS:

I CERTIFY that on _____, 2016, John Moor personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of the attached instrument;
- (b) was authorized and did execute this instrument as Mayor of the City of Asbury Park; and
- (c) executed the instrument as the act of the City of Asbury Park.

Notary Public

STATE OF NEW JERSEY,
COUNTY OF MONMOUTH

SS:

I CERTIFY that on _____, 2016, Brian Cheripka personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of the attached instrument;
- (b) was authorized and did execute this instrument as authorized officer of AP BLOCK 176 VENTURE URBAN RENEWAL LLC; and
- (c) executed the instrument as the act of _____ URBAN RENEWAL LLC.

Notary Public

Attachment: 1101 Ocean Ave Draft Financial Agreement (2016-38 : 1101 Ocean Ave Financial Agreement)



**Asbury Park, New Jersey
ORDINANCE NO. 2016-39**

**AN ORDINANCE OF THE CITY OF ASBURY PARK, IN THE COUNTY OF
MONMOUTH, STATE OF NEW JERSEY, PROVIDING FOR THE SPECIAL
ASSESSMENT OF THE COST OF CERTAIN WASTEWATER, STORMWATER,
ROADWAY, STREETScape, UTILITY AND OTHER INFRASTRUCTURE
IMPROVEMENTS ON BLOCK 4002, LOT 1 WITHIN THE ASBURY PARK
WATERFRONT REDEVELOPMENT AREA AND ESTABLISHING A MECHANISM
FOR PAYMENT OF THE COST THEREOF**

WHEREAS, pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**” or the “**Act**”) and that certain redevelopment plan dated as of June 5, 2002 (as amended and supplemented from time to time, the “**Redevelopment Plan**”), the City of Asbury Park (the “**City**”), in the County of Monmouth, State of New Jersey, and Asbury Partners, LLC (the “**Master Developer**”) entered into that certain “Amended and Restated Redeveloper and Land Disposition Agreement” dated October 28, 2002 (as the same may be amended and supplemented in accordance with its terms, the “**Redeveloper Agreement**”) with respect to the Waterfront Redevelopment Area, as defined therein; and

WHEREAS, in order to finance the cost of the infrastructure improvements contemplated by the Redeveloper Agreement, the City has determined that the cost of the infrastructure improvements should be assessed pursuant to *N.J.S.A. 40:56-1 et seq.* (the “**Local Improvements Law**”) and/or pursuant to an assessment agreement under the Redevelopment Area Bond Financing Law pursuant to *N.J.S.A. 40A:12A-64 et seq.* (the “**RAB Law**”); and

WHEREAS, pursuant to Section 7.1 of the Redeveloper Agreement, the Master Developer is responsible for the costs of certain wastewater, stormwater, roadway, streetscape, utility and other infrastructure improvements (the “**Infrastructure Improvements**”) within the Waterfront Redevelopment Area, including with respect to Block 4002, Lot 1 (the “**Property**”), which Infrastructure Improvements, in whole or in part, constitute (i) redevelopment projects (collectively, the “**Infrastructure Redevelopment Project**”) to be undertaken pursuant to the Redevelopment Plan in the Waterfront Redevelopment Area, all as contemplated by the Redevelopment Law and RAB Law, and (ii) local improvements within the meaning, and for the purposes set forth in the Local Improvement Law for which a special assessment may be imposed; and

WHEREAS, pursuant to the RAB Law, a municipality may issue bonds (as issued in connection with this Ordinance, the “**RABs**”) to finance redevelopment projects pursuant to a redevelopment plan within an area in need of redevelopment, which RABs may be secured by, among other things, a special assessment on certain property within an area in need of redevelopment,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ASBURY PARK, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AS FOLLOWS:

Section 1. The defined terms set forth in the recitals contained in this Ordinance are incorporated by reference as it is set forth at length herein.

Section 2. The purpose of this special assessment ordinance is to establish a mechanism for imposing special assessments of all or a portion the cost of the Infrastructure Improvements to be developed, financed and constructed on or benefiting the Property in accordance with the requirements of the Redevelopment Agreement. The Infrastructure Improvement will consist of the design, financing, construction and installation of various infrastructure improvements, including but not limited to, wastewater, stormwater, roadway, streetscape and utility improvements, including all work necessary therefor and incidental thereto with respect to the Property.

Section 3. Notice is hereby given to the owners of the Property that the City intends to make and levy special assessments against all such Property in the amount and at the time that such Infrastructure Improvements have been completed or at such later time as the City may determine. The estimated aggregate cost of such Infrastructure Improvements for the Property subject to this ordinance is \$17,500,000 (subject to the actual costs of such Infrastructure Improvements at the time of installation as certified to the City Engineer), provided that the special assessments for any Property affected by this ordinance shall be made and levied in the manner provided by law and shall be as nearly as possible in proportion to and not in excess of the peculiar benefit, advantage or increase in value that the Property shall be deemed to receive by reason of the Infrastructure Improvements.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The amount of any special assessment (“**Special Assessment**”) levied against the Property shall be determined, at the option of the owner of the Property, in accordance with:

(i) the procedure set forth in the Local Improvements Law; or

(ii) pursuant to a special assessment agreement entered into by and between the City and the affected property owner under *N.J.S.A. 40A:12A-66* of the RAB Law (“**Special Assessment Agreement**”).

(b) Whether levied under the Local Improvements Law or a Special Assessment Agreement under Section 66 of the RAB Law, the Special Assessments shall be paid over a 30 year period in quarterly installments payable at the time and in the manner that generally applicable property taxes are required to be paid in the City, with legal interest: (a) charged on the portion of the Special Assessments allocable to the RABs from the date of issuance through the date that all of the RABs are no longer outstanding, with such legal interest meaning the

interest rate on the RABs; (b) charged on the portion of the Special Assessments allocable to the RABs with respect to any installment not paid when due, with such legal interest meaning the highest rate of interest permitted under New Jersey law in the case of unpaid taxes or tax liens until paid; and (c) charged on the portion of the Special Assessments not allocable to the RABs with respect to any installment not paid when due, with such legal interest meaning the highest rate of interest permitted under New Jersey law in the case of unpaid taxes or tax liens until paid, or such lesser portion as may be determined by the City. The first such installment shall commence on the first business day of the quarter immediately following (i) the determination of the peculiar benefit, advantage or increase in value which particular lot or Property shall be deemed to have received as a result of the infrastructure improvements, as required to under N.J.S.A. 40:56-27 or (ii) with respect to the Property, at the time set forth in a Special Assessment Agreement under the RAB Law provided that any owner of land so assessed shall, with respect to the portion of the Special Assessments allocable to the RABs, have the privilege of paying the whole of such allocable portion of any Special Assessment or any balance of installments with accrued interest thereon at any time. Such Special Assessment shall remain a lien upon the affected Property described herein until the Special Assessment, with all installments and accrued interest thereon, applicable the particular Property shall be paid and satisfied.

(c) No portion of the cost of the Infrastructure Improvements shall be paid from funds raised from the municipal tax levy or other available funds of the City.

(d) Any Special Assessment levied pursuant to Section 4(a)(ii) of this ordinance shall be subject to the terms and conditions set forth in a Special Assessment Agreement to be entered into by the City and the affected property owner substantially in the form attached hereto as Exhibit A, together with such additions, deletions, modifications or revisions as may be required in consultation with counsel to the City to facilitate the transaction contemplated hereby. Any Special Assessment Agreement executed from time to time, and pursuant to which Special Assessment payments are securing bonds issued under the RAB Law, shall be recorded in accordance with the requirements of the RAB Law. The Mayor is hereby authorized and directed to execute the Special Assessment Agreement and the City Clerk is hereby authorized and directed to attest to such signature, and to affix the corporate seal of the City upon the Special Assessment Agreement.

(e) The City hereby determines that: (i) it shall have the right to charge Owner(s) of the Property legal interest (a) charged on the portion of the Special Assessments allocable to the RABs from the date of issuance through the date that all of the RABs are no longer outstanding, with such legal interest meaning the interest rate on the RABs; (b) charged on the portion of the Special Assessments allocable to the RABs with respect to any installment not paid when due, with such legal interest meaning the highest rate of interest permitted under New Jersey law in the case of unpaid taxes or tax liens until paid; and (c) charged on the portion of the Special Assessments not allocable to the RABs with respect to any installment not paid when due, with such legal interest meaning the highest rate of interest permitted under New Jersey law in the case of unpaid taxes or tax liens until paid, or such lesser portion as may be determined by the City; and (ii) in lieu of the levy of the special assessment described herein pursuant to the Local

Improvements Law, the special assessment may be charged, collected and otherwise applied in the manner set forth in the Special Assessment Agreement.

Section 5. The Mayor is hereby authorized and directed to determine all matters and terms in connection with the Special Assessment or the Special Assessment Agreement, all in consultation with the counsel to the City, and the manual or facsimile signature of the Mayor upon any documents shall be conclusive as to all such determinations. The Mayor, the City Manager, the Chief Financial Officer, the City Clerk and any other City official, officer or professional, including but not limited to, redevelopment counsel, bond counsel, the financial advisor and the auditor to the City, are each hereby authorized and directed to execute and deliver such documents as are necessary to facilitate the transactions contemplated hereby, and to take such actions or refrain from such actions as are necessary to facilitate the transactions contemplated hereby, in consultation with, as applicable, redevelopment counsel, bond counsel, the financial advisor and the auditor to the City, and any and all actions taken heretofore with respect to the transactions contemplated hereby are hereby ratified and confirmed.

Section 6. Nothing in this ordinance is intended to abrogate or in any way limit the general application of that certain ordinance adopted by the City on February 20, 2013 and entitled “An Ordinance of the City of Asbury Park, in the County of Monmouth, New Jersey, Providing for the Special Assessment of the Cost of Certain Wastewater, Stormwater, Roadway, Streetscape, Utility and Other Infrastructure Improvements in Portions of the Prime Renewal Area and the Boardwalk Area within the Asbury Park Waterfront Redevelopment Area and Establishment of a Mechanism for Payment of the Cost Thereof”.

Section 7. This ordinance shall take effect as provided by law.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2016-39 which was finally adopted by the City Council at a meeting held on the 12 12th day of October, 2016

CINDY A. DYE
CITY CLERK

Record and return to:

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

SPECIAL ASSESSMENT AGREEMENT
BY AND BETWEEN
THE CITY OF ASBURY PARK
AND
AP BLOCK 176 VENTURE URBAN RENEWAL LLC

Attachment: 1101 Ocean Ave. Draft Special Assessment Agreement (2016-39 : 1101 Ocean Ave Special Assessment Ordinance)

THIS SPECIAL ASSESSMENT AGREEMENT (hereinafter "**Agreement**"), made this ____ day of _____, 2016, by and between **AP BLOCK 176 VENTURE URBAN RENEWAL LLC** (the "**Entity**"), the Entity being qualified to do business under the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., with offices as hereinafter specified, along with its permitted successors and/or assigns, and the **CITY OF ASBURY PARK**, a municipal corporation in the County of Monmouth and the State of New Jersey (the "**City**"), and together with the Entity, the "**Parties**").

WITNESSETH:

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Act") authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the Act confers certain contract, planning and financial powers upon a redevelopment entity, as defined at Section 3 of the Act, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the City has elected to exercise these redevelopment entity powers directly, as permitted by Section 4 of the Act; and

WHEREAS, on June 5, 2002, the City adopted the "Asbury Park Waterfront Redevelopment Plan (Plan IV)" (as amended and supplemented from time to time, the "Redevelopment Plan") with respect to the "Asbury Park Waterfront Redevelopment Area," as defined in the Redevelopment Plan (the "Waterfront Redevelopment Area");

WHEREAS, pursuant to the Act, including Section 8 thereof (N.J.S.A. 40A:12A-8), a municipality is permitted to contract with a redeveloper to develop redevelopment projects pursuant to a redevelopment plan within an area in need of redevelopment, as all such terms are defined in the Act;

WHEREAS, the City and Asbury Partners, LLC (the "Master Developer") entered into that certain "Amended and Restated Redeveloper and Land Disposition Agreement" dated October 28, 2002 (as the same has been or may be amended and supplemented in accordance with its terms, the "Redeveloper Agreement");

WHEREAS, as a result of the world-wide financial issues (the "Financial Crisis") occurring in or about 2008, iStar Financial Inc. as lender to Master Developer foreclosed on a pledge of the membership interests of Master Developer, thereby succeeding to ownership of such membership interests;

WHEREAS, during the Financial Crisis, the Parties arbitrated certain disputed issues arising under and in accordance with the requirements of the Redeveloper Agreement;

WHEREAS, on or about July 18, 2011, the arbitrator, Honorable Nicholas Politan issued an arbitrator's award (the "Arbitrator's Award") that determined, among other things, that the Parties should seek to work collaboratively to finance infrastructure improvements that are a critical construction condition to the development of residential units and other economic development activity within the Waterfront Redevelopment Area;

WHEREAS, in order to comply with the spirit of the Arbitrator's Award, to induce the Master Developer to proceed expeditiously with the development of the Infrastructure Improvements (as defined herein) and other economic development activities within the Waterfront Redevelopment Area, and to determine the appropriate means to finance the cost of the Infrastructure Improvements, the City has determined that the cost of the Infrastructure Improvements should be assessed in the manner provided in N.J.S.A. 40:56-1 et seq. and/or pursuant to an assessment agreement under the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 et seq. (the "RAB Law");

WHEREAS, pursuant to Section 7.1 of the Redeveloper Agreement, the Master Developer is responsible for the costs of certain wastewater, stormwater, streetscape, utility and other infrastructure improvements (the "Infrastructure Improvements") within the Waterfront Redevelopment Area, which Infrastructure Improvements, in whole or in part, constitute (i) redevelopment projects (collectively, the "Infrastructure Redevelopment Project") to be undertaken pursuant to the Redevelopment Plan in the Waterfront Redevelopment Area, all as contemplated by the Act, and (ii) local improvements within the meaning, and for the purposes set forth in, Chapter 229 of the Pamphlet Laws of 1938, and Chapter 175 of the Pamphlet Laws of 1951, all as amended and supplemented, and codified at N.J.S.A. 40:56-1 et seq. the "Local Improvements Law") for which a Special Assessment (as defined herein) may be imposed;

WHEREAS, pursuant to the Redeveloper Agreement and the Redevelopment Plan, the Master Developer intends to develop itself or cause to be developed by approved subsequent developers approximately 1,721 units of for-sale housing in the form of townhomes, condominium apartments, or other housing units (collectively, the "Housing Improvements") within the Waterfront Redevelopment Area, as well as commercial uses and/or projects of diverse types identified in the Redeveloper Agreement and/or the Redevelopment Plan (collectively the "Commercial Improvements") which Housing Improvements and Commercial Improvements constitute a redevelopment project (the "Housing Redevelopment Project") to be undertaken pursuant to the Redevelopment Plan in the Waterfront Redevelopment Area;

WHEREAS, pursuant to the "Long Term Tax Exemption Law," constituting Chapter 431 of the Pamphlet Laws of 1991, as amended and supplemented, and codified at N.J.S.A. 40A:20-1 et seq. (the "Long Term Tax Exemption Law"), a redeveloper that is an urban renewal entity may enter into a financial agreement with a municipality to make payments in lieu of taxes ("PILOT") with respect to property owned by the urban renewal entity in a redevelopment area;

WHEREAS, the Entity is an urban renewal entity that is proposing the development and construction of the Project (as defined herein) on the Project Site (as defined herein) pursuant to that certain subsequent developer agreement with the City to be executed contemporaneously herewith (the "Subsequent Developer Agreement");

WHEREAS, in order to enhance the economic viability of an opportunity for a successful implementation of the Project, the City and the Entity are proposing to enter into a financial agreement to be executed contemporaneously herewith governing payment by the Entity to the City of payments in lieu of real estate taxes in connection with the Project pursuant to the Long Term Tax Exemption Law (the "Financial Agreement");

WHEREAS, pursuant to the RAB Law, a municipality may issue bonds ("RABs") to finance redevelopment projects pursuant to a redevelopment plan within an area in need of redevelopment, which RABs may be secured by, among other things, a special assessment (the "Special Assessment") on certain property within an area in need of redevelopment;

WHEREAS, in furtherance of the transactions contemplated by this Agreement, the Subsequent Developer Agreement, the Financial Agreement and that certain Project Finance Agreement executed by and between the City and the Master Developer, dated as of December 2012 (as amended, the "Project Finance Agreement"), the City intends to issue RABs pursuant to the RAB Law;

WHEREAS, in order to secure the payment of the RABs and the payment of the PILOTs payable to the City, the parties desire to enter into this Agreement pursuant to which the City shall have a right to impose a special assessment equal to the cost referred to herein on the Land (as herein defined) and any improvement related thereto in accordance with the terms of this Agreement;

WHEREAS, in order to effect the mechanism for the payment of the Special Assessment between the City and the Entity, the City has adopted on _____, 2016 that certain ordinance entitled “An Ordinance Of The City Of Asbury Park, In The County Of Monmouth, New Jersey, Providing For The Special Assessment Of The Cost Of Certain Wastewater, Stormwater, Roadway, Streetscape, Utility And Other Infrastructure Improvements On Block 4002, Lot 1 Within The Asbury Park Waterfront Redevelopment Area And Establishing A Mechanism For Payment Of The Cost Thereof” (the “Ordinance”);

WHEREAS, it is the intent of the Parties that, so long as the Owner (as defined herein) makes all required payments under the Financial Agreement such Owner shall not be required to make payment of the Unpledged Portion of the Special Assessment (as defined herein); and

NOW, THEREFORE, in consideration of one dollar (\$1.00), the mutual covenants and promises set forth above and herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I. GENERAL PROVISIONS

SECTION 1.01 Governing Law — THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THIS STATE, INCLUDING THE PROVISIONS OF THE ACT, THE LOCAL IMPROVEMENTS LAW, THE RAB LAW AND ALL OTHER APPLICABLE LAWS. IT IS HEREBY EXPRESSLY ACKNOWLEDGED, UNDERSTOOD AND AGREED THAT UPON THE RECORDATION OF THE ORDINANCE AND THIS AGREEMENT IN ACCORDANCE WITH SECTION 7.01 HEREOF, THE LAND, AND ANY IMPROVEMENT RELATED THERETO, AS SUCH TERMS ARE DEFINED HEREIN, SHALL BE SUBJECT TO AND GOVERNED BY THE TERMS OF THIS AGREEMENT AND EACH AND EVERY OWNER, WHETHER IN FEE SIMPLE OR OTHERWISE (SUCH AS, WITHOUT LIMITATION, THE OWNER OF ANY CONDOMINIUM UNIT IN A PROJECT COMPONENT), OF ANY SUCH PARCEL OF LAND, AND ANY IMPROVEMENT RELATED THERETO, REGARDLESS OF WHETHER SUCH OWNER SHALL BE AN URBAN RENEWAL ENTITY, OR ANY OTHER COMPANY, ENTITY OR PERSON (EACH INDIVIDUALLY REFERRED TO HEREIN AS AN "OWNER") SHALL BE BOUND BY THE TERMS HEREOF. IN THE EVENT OF ANY BREACH OR DEFAULT OF THIS AGREEMENT BY AN OWNER, SUCH BREACH OR DEFAULT SHALL NOT CONSTITUTE A BREACH OR DEFAULT BY ANY OTHER OWNER(S) AND SUCH OTHER OWNER(S), AND ITS RESPECTIVE PARCEL OR PORTION OF LAND, AND ANY IMPROVEMENTS RELATED THERETO, SHALL CONTINUE TO BE SUBJECT TO, GOVERNED BY AND BOUND BY THIS AGREEMENT.

SECTION 1.02 General Definitions — Capitalized terms used and defined in the preambles hereof shall have the meanings assigned to such terms. Unless specifically provided otherwise or the context otherwise requires, the following terms when used in this Agreement shall mean:

Annual Service Charge – shall have the meaning ascribed to such term in the Financial Agreement.

Assignment Agreement — shall mean the agreement to be executed in connection herewith between the City and the Trustee assigning the Pledged Portion of the Special Assessment to the Trustee for the benefit of the holders of the RABs.

Financial Agreement — shall have the meaning ascribed to such term in the recitals.

In Rem Tax Foreclosure — shall mean a summary proceeding by which the City may enforce the lien for taxes, special assessments and other statutory liens. Said foreclosure is governed by N.J.S.A. 54:5-1 et seq.

Indenture — shall mean the Indenture of Trust approved in connection with and providing for, among other things, the trust estate securing the RABs.

Land — shall mean the real property known as Block 4002, Lot 1, upon which the Project shall be constructed, all as set forth on the tax maps of the City.

Legal Interest - While repayment of the Special Assessment is current and in good standing, Legal Interest shall be represented by the interest rate on the RABs or, if applicable, other City obligations issued to finance or refinance the cost of the Infrastructure Improvements. In the event that an Owner fails to timely pay, in full, any installment of the Special Assessment, Legal Interest with respect to such installment shall mean the highest rate of interest permitted under New Jersey law in the case of unpaid taxes or tax liens on land until paid.

Owner – shall have the meaning ascribed to such term at Section 1.01.

Pledged Portion of the Special Assessment — shall mean that portion of the Special Assessment that is assigned to the Trustee pursuant to the Assignment Agreement and pledged to the payment of the RABs as set forth in Exhibit B, C, D and E.

Project — shall mean the mixed use, sixteen (16) story structure (in the condominium form of ownership) containing 128-130 residential condominium units (the “Residential Component”), a 54-56 room hotel (with associated amenities and improvements) (the “Hotel Component”), approximately 21,928 square feet of ground floor retail space and approximately 11,837 square feet of commercial space on the upper levels, including a gym and office space relating to the uses in the Project, (the “Retail Component”) and structured parking containing approximately 415 parking spaces (the “Parking Component”), together with related amenities and improvements applicable to each identified component, along with associated amenities and improvements, to be constructed on the Project Site in accordance with the terms of the Subsequent Developer Agreement, the Financial Agreement and this Agreement.

Project Components – shall mean each of the Residential Component, Hotel Component, Retail Component, and Parking Component, as defined within the Project definition above. Each of the Project Components will contain condominium Units and each such Unit will include a percentage interest in the common elements of the Project.

Project Site – shall mean the Land.

Subsequent Developer Agreement — shall have the meaning ascribed to such term in the recitals.

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

Trustee — shall mean the trustee appointed under the Indenture.

Unit – a condominium unit within any Project Component, together with such Unit’s percentage interest in the common elements of the condominium.

Unpledged Portion of the Special Assessment — shall mean that portion of the Special Assessment, if applicable, that is paid to the City by each of the Project Components, or Units within such Project Components, pursuant to the terms of this Agreement as set forth in Exhibits B, C, D and E.

ARTICLE II. DURATION OF AGREEMENT

SECTION 2.01 Term

The Parties hereby expressly, irrevocably and unconditionally acknowledge, agree, warrant and covenant that this Agreement, including the obligation to pay the Special Assessments required under Article III hereof, shall remain in effect, for a period of thirty (30) years from the date that the first Special Assessment amount is due with respect to each of the Project Components or each condominium unit within a particular Project Component in accordance with the terms hereof.

ARTICLE III. SPECIAL ASSESSMENT AMOUNT

SECTION 3.01 Special Assessment Amount and Installments

(a) The Owner hereby expressly, irrevocably and unconditionally acknowledges and agrees that, with respect to each Project Component or Unit in the Project to be constructed (each such Project Component or Unit including the portion of the Land attributable thereto as a common element in accordance with the percentage interest in the common elements of the Project attributed to such Project Component or Unit): (i) the Special Assessment for the Project shall be the total amount set forth in Exhibit A (the "Principal Amount"); and (ii) the Principal Amount of the Special Assessment shall be, and is hereby irrevocably and unconditionally accepted in full and agreed to by the present Owner of the Land and Project constructed thereon from time-to-time (on behalf of such present Owner and all subsequent Owner(s)) and in accordance with N.J.S.A. 40A:12A-66(c) of the RAB Law and shall be deemed to be, in lieu of a determination by the procedures otherwise applicable to determining the actual benefit conferred on the Land and the Project constructed thereon from time-to-time, the benefit conferred on the Land and the Project by the Infrastructure Improvements.

(b) The Special Assessment for the Project shall be allocated to the Land and each Project Component and Unit within a Project Component pursuant to Exhibits B, C, D and E attached hereto and, shall be payable quarterly on February 1, May 1, August 1 and November 1 of each year during the term of this Agreement commencing on the first day of the calendar month following the earlier of: (i) eligibility of each Unit for the issuance of a Certificate of Occupancy; or (ii) the expenditure of all capitalized interest available to pay interest on the RABs.

(c) The Unpledged Portion of the Special Assessment shall be allocated to the Project and each Project Component or Unit in accordance with the calculation of the Annual Service Charge under the Financial Agreement.

(d) The Pledged Portion of the Special Assessment for each Project Component and each Unit in the Project shall be irrevocably assigned by the City pursuant to the Assignment Agreement and paid over to the Trustee to be applied to the payment of debt service on the RABs.

(e) Each installment payment of the aforesaid Special Assessment amounts is to be made to the City and/or the Trustee, as the case may be, and shall be clearly identified as a Special Assessment payment for the Project.

(f) With respect to the Residential Component, the Entity hereby agrees to satisfy the Deficiency Amount (as such term is defined in Section 3.01 of that certain Master Special Assessment Agreement by and between the City of Asbury Park and Asbury Partners, LLC dated May 15, 2013, herein the "Master Assessment Agreement"), if applicable, with respect to each Unit within the Residential Component, by making any necessary Pledged Portion of the Special Assessment prepayment of the Deficiency Amount with respect to such Unit to the Trustee for application in accordance with the Indenture, which prepayment shall be made at or

prior to, and as a condition precedent to, the transfer of title to such Unit, all as contemplated by Section 3.01(g)(ii) of the Master Assessment Agreement. As provided in the Supplemental Indenture governing the RABs issued with respect to the Project, within 30 days following the sale of the last Unit in the Residential Component, or at such earlier time as is set forth in the Supplemental Indenture, MuniCap, Inc. shall determine the aggregate amount of the Pledged Portion of the Special Assessment (including any Deficiency Amounts paid with respect to Units in the Residential Component). As provided in the Supplemental Indenture, in the event that such aggregate amount shall exceed the aggregate amount of the Pledged Portion of the Special Assessment required to pay debt service and other charges applicable to the RABs issued in connection with the Project (that is, if all Units in the Residential Component were taken as a whole, no Deficiency Amount would have been due), such excess Deficiency Amount may be refunded to the Entity at the time and in the manner provided in the Supplemental Indenture.

SECTION 3.02 Interest on Past Due Amounts; Credit for PILOT Payments; Legal Interest

(a) Each Owner hereby expressly, irrevocably and unconditionally agrees, warrants, covenants and accepts that in the event that the Owner fails to timely pay, in full, any installment of any Special Assessment amount, the amount past due shall bear the highest rate of interest permitted under New Jersey law in the case of unpaid taxes or tax liens on land until paid.

(b) The City shall credit its receipt of the Annual Service Charge pursuant to the Financial Agreement, by or on behalf of the Owner against the Owner's respective portion of the Unpledged Portion of the Assessment, but only to the extent of the amount of the Annual Service Charge that are actually received by or on behalf of the City. It is the intent and agreement of the Parties that, so long as an Owner makes all required payments under the Financial Agreement it shall not be required to make the payment of the Unpledged Portion of the Special Assessment otherwise required under this Agreement. Further, upon the occurrence of termination of the Financial Agreement, the City shall credit its receipt of the municipal share of generally applicable taxes against the Unpledged Portion of the Special Assessment otherwise required to be paid under this Agreement.

(c) The Parties hereby agree that the City shall have the obligation to charge Legal Interest on the Pledged Portion of the Special Assessments. Notwithstanding the preceding sentence, the City shall have the right, but not the obligation to charge Legal Interest on any installment of the Unpledged Portion of the Special Assessments not paid when due.

(d) The City agrees that upon the Entity's transfer of title to a Unit, the obligation to make payments of Special Assessment shall run with the land to the particular successor Owner of that Unit and the predecessor Owner shall have no further obligation to make such payments.

ARTICLE IV. MUNICIPAL LIEN; SUBORDINATION OF FEE TITLE

SECTION 4.01 Municipal Lien

(a) The parties hereby expressly, irrevocably and unconditionally acknowledge, agree, warrant and covenant that in accordance with the Local Improvements Law, specifically N.J.S.A. 40:56-33, and the RAB Law, specifically N.J.S.A. 40A:12A-66(c), and such other statutes as may be sources of relevant authority, if any, as a consequence of the previously recorded Ordinance and the recordation of this Agreement, as set forth in Section 7.01 hereof, the Ordinance, this Agreement, and any amount due hereunder, including without limitation, the Special Assessment, shall constitute an automatic, enforceable and perfected statutory municipal lien for all purposes of law.

(b) The Parties hereby expressly, irrevocably and unconditionally represent, agree, warrant and covenant that this Agreement, and the municipal liens created hereby, are valid and enforceable in accordance with all applicable law, including without limitation the Local Improvements Law and the RAB Law.

SECTION 4.02 Subordination of Fee Title

The Parties hereby expressly, irrevocably and unconditionally acknowledge, agree, warrant and covenant that each Owner has the right, subordinate to the municipal lien, as a matter of law, to encumber the fee title to its property, including any improvements related thereto, and that any such subordinate encumbrance shall not be deemed to be a violation of this Agreement.

ARTICLE V. DEFAULT

SECTION 5.01 Default - Default shall be failure of any party to perform its obligations under this Agreement, beyond any applicable notice, cure or grace period (each a “Default”). In addition, a Default under this Agreement by any Owner shall only be considered a Default against that Unit in or comprising a Project Component to which the Default applies and from which it arises, without any implication of Default against any other Owner, Unit or real property.

SECTION 5.02 Cure Upon Default - Should any party be in Default of any obligation under this Agreement, the other party shall notify the defaulting party and any mortgagee, if applicable, in writing of said Default. Except as otherwise limited by law, the defaulting party shall have sixty (60) days to cure any Default provided however, if such Default cannot be cured timely but cure action is being diligently prosecuted, such 60 day period shall be extended to permit required cure action to be concluded, other than a payment Default, for which the defaulting party shall have ten (10) days to cure.

SECTION 5.03 Remedies for Default - (a) In the event of any uncured Default by the City, the Owner may take whatever action at law or in equity, as may be necessary or desirable to enforce the performance or observance of any rights under this Agreement, including an action for specific performance or damages.

(b) In the event of any uncured Default by an Owner, the City may take whatever action at law or in equity, as may be necessary or desirable to enforce the performance or observance of any rights under this Agreement, including an action for specific performance or damages. No Default hereunder by an Owner shall terminate this Agreement (except as described herein) and its obligation to pay the Special Assessment amounts due hereunder, which shall continue in effect for the remaining term of this Agreement as set forth in Section 2.01 hereof.

SECTION 5.04 Default in the Payment of Special Assessment

Upon any Default by the Owner in payment of any installment of the Special Assessment, the City, in addition to its other remedies, reserves the right to proceed against the Unit to which the Default applies, and any improvements related thereto, in the manner provided by Applicable Law, including the Local Improvements Law and the RAB Law, and shall have the right to proceed to in rem tax foreclosure consistent with the provisions and procedures of the In Rem Tax Foreclosure law. As set forth in the RAB Law, specifically N.J.S.A. 40A:12A-66(c), an event of a default by the Owner in the payment of an installment of the Special Assessment shall not result in the acceleration of the subsequent installments of the Special Assessment and such subsequent installments shall be considered as not in default and the municipal lien for the subsequent installments of the Special Assessment not yet due shall continue.

ARTICLE VI. NOTICES

SECTION 6.01 Notice - Formal notices, demands and communications between and among the City and an Owner shall be in writing and deemed given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, or by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available. In that case such notice is deemed effective upon delivery. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by written notice.

Copies of all notices, demands and communications shall be sent as follows:

If to the City:

City of Asbury Park
One Municipal Plaza
Asbury Park, New Jersey 07712
Attn: City Manager

with copies to:

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

If to:

The Entity:

AP BLOCK 176 VENTURE URBAN RENEWAL LLC
c/o iStar
1100 Ocean Avenue
Asbury Park, New Jersey 07712
Attention: Brian Cheripka, Senior Vice President

If to any other Owner:

The notice shall be directed to the Owner's address as set forth in the property tax records of the City.

ARTICLE VII. MISCELLANEOUS

SECTION 7.01 Recording — Upon the execution and delivery of this Agreement, the entire Agreement and the Ordinance shall be filed and recorded with the Monmouth County Clerk by the City, at the Entity's expense, such that this Agreement and the Ordinance shall be reflected upon the land records of the County of Monmouth as a municipal lien upon and a covenant running with each and every parcel of Land and any improvements related thereto.

SECTION 7.02 Counterparts - This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 7.03 Amendments - This Agreement may not be amended, changed, modified, altered or terminated without the written consent of the parties hereto.

SECTION 7.04 Severability of Invalid Provisions - If any one or more of the covenants, agreements or provisions herein contained shall be held to be illegal or invalid in a final proceeding, then any such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof. In such event, the Parties shall confer in good faith and endeavor to reform this Agreement in a manner which is lawful and produces the same or substantially the same results as existed prior to the declaration of illegality or invalidity.

SECTION 7.05 Exhibits – The Exhibits attached to this Agreement are incorporated herein and made part of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

10/11/16 DRAFT

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

ATTEST:

CITY OF ASBURY PARK

City Clerk

By: _____
John Moor, Mayor

**AP BLOCK 176 VENTURE
URBAN RENEWAL LLC**

By: _____
Name: _____
Authorized Signatory

Attachment: 1101 Ocean Ave. Draft Special Assessment Agreement (2016-39 : 1101 Ocean Ave Special Assessment Ordinance)

EXHIBIT A**INFRASTRUCTURE IMPROVEMENTS**

The Special Assessment shall include the costs related to the following Infrastructure Improvements, which are allocable to the Land, including but not limited to the hard costs of construction, the costs of engineering, planning and design, the cost of construction management services and other soft costs and costs of issuance related thereto:

	Total Cost	Infrastructure Allocation
	Phase	to Block 4002
Engineering Design	\$	\$
City Construction Administration	\$	\$
Mobilization, clearing, test pits	\$	\$
RCP Pipe	\$	\$
Box Culverts	\$	\$
Drainage Man Holes	\$	\$
Drainage Inlets	\$	\$
Sanitary Pipe and Fittings	\$	\$
Sanitary Man Holes	\$	\$
Paving	\$	\$
Curbs, Walks and Pavers	\$	\$
Traffic Marking	\$	\$
Landscaping	\$	\$
Street Lighting	\$	\$
Fill (Excess, if needed)	\$	\$
Streetscape	\$	\$
Fire Connections	\$	\$
Electrical (not street lights)	\$	\$
Testing and Inspection (incl. in pipe costs)	\$	\$
Construction Management	\$	\$
Total	\$	\$

The \$_____ principal amount constitutes a portion of the \$_____ cost of Phase _____ of Infrastructure Improvements applicable to Block 4002 on the tax maps of the City.

EXHIBIT B**RESIDENTIAL COMPONENT
CALCULATION OF SPECIAL ASSESSMENT,
PLEDGED AND UNPLEDGED PORTIONS**

Special Assessments for each Unit in the Residential Component shall be calculated as follows:

PILOT - shall be in accordance with and have the meaning ascribed to the term “Annual Service Charge” in the Financial Agreement. As further set forth at Article IV of the Financial Agreement, the PILOT shall equal:

a. In the period after Substantial Completion and prior to the initial transfer of title to a Unit, the greater of (i) the Minimum Annual Service Charge or (ii) the Sales Price for such Unit multiplied by the Tax Ratio multiplied by the Municipal Purposes Tax Rate divided by 100 multiplied by the County Share Constant.

b. In the first year following the initial transfer of a Unit, the greater of (i) the Minimum Annual Service Charge or (ii) the Sales Price multiplied by the Tax Ratio divided by 100 multiplied by the Municipal Purposes Tax Rate multiplied by the County Share Constant.

c. In each following year:

(a) in which the City is reporting 100% of value to the Monmouth County Tax Board, the greater of (i) the Minimum Annual Service Charge or (ii) the value assigned to the Unit by the tax assessor multiplied by the Municipal Purposes Tax Rate divided by 100 (the “Municipal Share”) multiplied by the Tax Ratio multiplied by the County Share Constant.

(b) in which the City is not reporting 100% of value to the Monmouth County Tax Board, the greater of: (i) the Minimum Annual Service Charge or (ii) the prior year Municipal Share multiplied by the Municipal Increase multiplied by the County Share Constant.

The Annual Service Charge shall be calculated from the first day of the month following the determination by the City of Substantial Completion of each Unit in the Project in the manner set forth herein.

County Share Constant – shall mean 1.052631579

Minimum Annual Service Charge – the Minimum Annual Service Charge shall be the amount of the total real property taxes levied against the Property in the last full year in which the Property was subject to conventional taxation, as escalated by the increase in the Municipal Purposes Tax Rate in each intervening year since the Property was last subject to conventional taxation.

Municipal Purposes Tax Rate – the sum of: (i) general municipal purposes tax rate for the City as determined by the Monmouth County Board of Taxation pursuant to N.J.S.A. 54:4-42, N.J.S.A. 54:4-45, N.J.S.A. 54:4-47, N.J.S.A. 54:4-48 and N.J.S.A. 54:4-49, and (ii) the municipal library tax rate, if and to the extent existing.

Sales Price – If unsold shall mean as follows for each Unit type:

Condo Unit Type	SQ. FT.	Base Price	Unit Count
1 bed / 1 Bath	710	\$517,180	1
1 bed / 1.5 Bath	960	\$679,782	11
1 bed + Den / 2 Bath	1,135	\$842,708	11
2 bed / 2 Bath	1,418	\$1,258,633	66
2 bed / 2.5 Bath	1,716	\$1,263,350	2
2 bed + Den / 2.5 Bath	1,375	\$1,350,000	1
2 bed + Den (FL5 PH) / 3 Bath	2,637	\$2,310,012	1
3 bed / 3 Bath	1,913	\$1,616,749	29
3 bed (FL5 PH) / 3.5 Bath	2,761	\$2,418,636	1
PH	2,696	\$2,424,173	7

The foregoing are the estimated average base sales prices (exclusive of options and location premiums) set forth in the Entity's application for long term tax exemption with respect to the Residential Component of the Project. Upon transfer of title to a Unit in the Residential Component of the Project in a bona fide arm's length sale transaction, as prescribed by N.J.S.A. 40A:20-14(a), Sales Price shall mean the true consideration stated in a deed for such Unit; and upon a transfer other than a bona fide arm's length sale transaction, shall mean the market value of the Unit at the time of such transfer as determined by the City's Tax Assessor.

Tax Ratio – the ratio set by the Monmouth County Board of Taxation from time to time pursuant to N.J.S.A. 54:3-17 et seq., representing the relationship of the assessed value of real property within the City to the market value of real property within the City.

Total Tax Rate – the sum of the Municipal Tax Rate and the tax rates established by the County of Monmouth and the Asbury Park Board of Education.

Calculation:

Special Assessment = Sales Price multiplied by Tax Ratio multiplied by Total Tax Rate divided by 100

Example:

If:

Sales Price = \$450,000

Total Tax Rate = \$5.546 Municipal Tax Rate = \$2.970 Tax Ratio = 32.58%

PILOT = \$4,583.49

Then:

Special Assessment = \$450,000 x 32.58% x \$ 5.546 ÷ 100 = \$8,130.99

Time for Calculation: The Pledged Portion of the Special Assessment shall be calculated at the time of initial issuance of the RABs, and recalculated upon the initial transfer of the Unit in the Residential Component of the Project to the initial Unit purchaser.

Pledged Portion of the Special Assessments shall be calculated as follows:

Pledged Portion of the Special Assessment = Special Assessment less PILOT

Example:

If

Sales Price = \$450,000

Total Tax Rate = \$5.546 Municipal Tax Rate = \$2.970 Tax Ratio = 32.58%

PILOT = \$4,583.49

Then:

Pledged Portion of the Special Assessment = \$8,130.99 - \$4,583.49 = \$3,547.50

Unpledged Portion of the Special Assessments shall be calculated as follows:

Unpledged Portion of the Special Assessment = Special Assessment less Pledged Portion of the Special Assessment

EXHIBIT C
HOTEL COMPONENT
CALCULATION OF SPECIAL ASSESSMENT,
PLEDGED AND UNPLEDGED PORTIONS

The Special Assessment shall be calculated as follows:

- A.** The Pledged Portion of the Special Assessment shall be a constant payment of \$125,000 per annum during the term of this Agreement.
- B.** The Unpledged Portion of the Special Assessment shall be equal to the schedule of Annual Service Charge payments set forth on Schedule _____ to the Financial Agreement.

EXHIBIT D
RETAIL COMPONENT
CALCULATION OF SPECIAL ASSESSMENT,
PLEDGED AND UNPLEDGED PORTIONS

The Special Assessment shall be calculated as follows:

- A.** The Pledged Portion of the Special Assessment shall be constant payment of \$60,000 per annum during the term of this Agreement.
- B.** The Unpledged Portion of the Special Assessment shall be equal to the schedule of Annual Service Charge payments set forth on Schedule _____ to the Financial Agreement.

EXHIBIT E
PARKING COMPONENT
CALCULATION OF SPECIAL ASSESSMENT,
PLEDGED AND UNPLEDGED PORTIONS

The Special Assessment shall be calculated as follows:

- A.** The Pledged Portion of the Special Assessment shall be constant payment of \$60,000 per annum during the term of this Agreement.
- B.** The Unpledged Portion of the Special Assessment shall be equal to the schedule of Annual Service Charge payments set forth on Schedule _____ to the Financial Agreement.

**CITY OF ASBURY PARK
BOND ORDINANCE NUMBER 2016-31**

**BOND ORDINANCE PROVIDING FOR VARIOUS
COMMUNICATION SYSTEM IMPROVEMENTS, BY AND
IN THE CITY OF ASBURY PARK, IN THE COUNTY OF
MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING
\$1,500,000 THEREFOR AND AUTHORIZING THE
ISSUANCE OF \$1,428,571 BONDS OR NOTES OF THE CITY
TO FINANCE PART OF THE COST THEREOF**

**BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF ASBURY
PARK, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY** (not less than two-
thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

SECTION 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized as a general improvement or purpose to be undertaken by the City of Asbury Park, in the County of Monmouth, State of New Jersey (the "City"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$1,500,000, which is inclusive of \$71,429 as the amount of down payment for said improvement or purpose required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"). Said down payment is now available therefor by virtue of a provision or provisions in a previously adopted budget or budgets of the City for down payment or for capital improvement purposes.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof and to meet the part of said \$1,500,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the City are hereby authorized to be issued in the principal amount of \$1,428,571 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said

improvement or purpose, negotiable notes of the City in a principal amount not exceeding \$1,428,571 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said bonds or notes are to be issued include various communication system improvements by and for the City, which improvements shall include, but are not limited to, as applicable, emergency and other City communication system improvements and the acquisition of all equipment, radios, technology hardware and software and any other communication equipment necessary to improve the City's communication system and shall also include all engineering and design work, preparation of plans and specifications, permits, bid documents, inspection and contract administration, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$1,428,571.

(c) The estimated cost of said improvement or purpose is \$1,500,000, inclusive of the down payment in the amount of \$71,429 for said improvement or purpose.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Monmouth make a contribution or grant in aid to the City, for the improvement and purpose authorized hereby and the same shall be received by the City prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey and/or the County of Monmouth. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey and/or the County of Monmouth, shall be received by the City after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the City as a result of using funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the City, provided that no note shall mature later than one (1) year from its date or otherwise authorized by the Local

Bond Law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Capital Budget of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement which the City may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 10 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the City and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$1,428,571 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$300,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purpose or improvement hereinbefore described.

SECTION 8. The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the City, and the City shall be obligated to levy *ad valorem* taxes upon all the taxable real property within

the City for the payment of the bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The City hereby declares the intent of the City to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

SECTION 10. The City Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the City and to execute such disclosure document on behalf of the City. The City Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the City pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the City and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the City fails to comply with its undertaking, the City shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The City covenants to maintain the exclusion from gross income under Section 103(a) of the Code of the interest on all bonds and notes issued under this bond ordinance.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval, as provided by the Local Bond Law.

DATED: October 12, 2016

CINDY A. DYE,
Clerk of the City of Asbury Park

APPROVAL BY THE MAYOR ON THIS _____ DAY OF _____, 2016

JOHN MOOR,

Mayor of the City of Asbury Park



**Asbury Park, New Jersey
ORDINANCE NO. 2016-33**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XX
“ENVIRONMENTAL REGULATIONS”, BY ADDING SUBSECTION 20-1.7 “PRIVATE
CATCH BASIN RETROFITTING” OF THE “REVISED GENERAL ORDINANCES OF
THE CITY OF ASBURY PARK, NEW JERSEY**

PURPOSE

An ordinance requiring the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the City of Asbury Park so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

DEFINITIONS

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- A. Municipal separate storm sewer system (MS4)-a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the City of Asbury Park or other public body, and is designed and used for collecting and conveying stormwater.
- B. Person-any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- C. Storm Drain Inlet-an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.
- D. Waters of the State-means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

PROHIBITED CONDUCT

No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

1. Already meets the design standard below to control passage of solid and floatable materials; or
2. Is retrofitted or replaced to meet the standard in Section IV below prior to the completion of the project.

DESIGN STANDARD

Storm drain inlets identified in Prohibited Conduct above shall comply with the following standard to control passage of solids and floatable materials through storm drain inlets. For purposes of this paragraph, “solid and floatable materials” means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see subparagraph 3 below.

1. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - b. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

2. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
3. This standard does not apply:

- a. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
- b. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - i. A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities) or
 - ii. A bar screen having a bar spacing of 0.5 inches.
- c. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars; or
- d. Where the New Jersey Department of Environmental protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

ENFORCEMENT

This ordinance shall be enforced by the following Departments within the City of Asbury Park: Police, Fire, Public Works, and Code Enforcement.

PENALTIES

Violations and penalties. Any person who violates any provision of this section shall, upon conviction thereof, be liable to the penalties provided by Chapter I, Section 1-5 for each storm drain inlet that is not retrofitted to meet the design standard.

SEVERABILITY

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2016-33 which was finally adopted by the City Council at a meeting held on the 12 12th day of October, 2016

CINDY A. DYE
CITY CLERK



Minutes
Meeting of the Municipal Council
Wednesday, October 12, 2016
REGULAR MEETING

Attendee Name	Title	Status	Arrived
John Moor	Mayor	Absent	
Amy Quinn	Deputy Mayor	Present	
Eileen Chapman	Councilmember	Present	
Yvonne Clayton	Councilmember	Present	
Jesse Kendle	Councilmember	Present	
Cindy Dye	City Clerk	Present	
Michael Capabianco	City Manager	Present	
Frederick Raffetto	City Attorney	Present	

City Clerk Cindy Dye called the meeting to order at 7:00 PM.

City Clerk Cindy Dye announced the following: “As to comply with the “Open Public Meetings Act,” Chapter 231, P.L. 1975, adequate Notice of this meeting has been provided in the following manner: The Annual notice was forwarded to the Asbury Park Press, The Coaster and Star Ledger on January 6, 2016, and posted on the bulletin board the same date. All notices are on file with the City Clerk.”

PROCLAMATION RECOGNIZING PASTOR

Council Member Chapman read the proclamation from the City Council to Reverend David N. Harrington.

MATTERS FROM CITY COUNCIL

Council Member Chapman stated that this week is the Fall Beach Sweep and encourages everyone to participate.

Council Member Clayton stated that Good News Radio will be holding a fund raiser for Haiti victims.

Council Member Kendle reminded everyone that this Friday is Homecoming. He requests that everyone supports the Asbury Park High School.

MATTERS FROM CITY MANAGER

City Manager Capabianco has no matters.

MATTERS FROM CITY ATTORNEY

City Attorney Raffetto has no matters.

PUBLIC PARTICIPATION

1. Motion to: Open the Meeting to the Public

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jesse Kendle, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

2. The following members from the public spoke

Raven Love, Adrian Sanders, NAACP, Derrick Parreott, Jessie Falser, Linda Johnson, Tim Progcutte, Shawn Dickerson, Will Wright and David Harrington.

3. Motion to: Close the Public Portion of the Meeting

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

MINUTES

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Yvonne Clayton, Councilmember
SECONDER:	Jesse Kendle, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

1. September 26, 2016 Executive Session Minutes
2. September 26, 2016 Workshop Meeting
3. September 28, 2016 Executive Session
4. September 28, 2016 Regular Meeting

CONSENT AGENDA RESOLUTIONS

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jesse Kendle, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

- 2016-246 Special Event Resolution
- 2016-234 Resolution authorizing the payment of payroll in the amount of \$1,013,883.54
- 2016-235 Resolution of the City of Asbury Park, County of Monmouth, State of New Jersey Providing for the Insertion of Special Items of Revenue in the 2016 Budget of the City of Asbury Park Pursuant to N.J.S.A. 40a:4-87 (Chapter 159)
- 2016-236 Resolution of the City of Asbury Park, County of Monmouth, State of New Jersey Providing for the Insertion of Special Items of Revenue in the 2016 Budget of the City of Asbury Park Pursuant to N.J.S.A. 40a:4-87 (Chapter 159)
- 2016-237 Amending the Metered Parking Requirements in the Downtown and Waterfront Areas of the City, Effective Every Saturday During the Time Period from November 26, 2016 through December 24, 2016
- 2016-241 Resolution Approving Community YMCA Senior Citizen Swimming Program
- 2016-238 A Resolution of the City of Asbury Park Releasing the Performance Bond for 621 Lake Avenue (Block 2404, Lots 4.01 and 4.02 and Accepting Maintenance Guarantee
- 2016-239 Resolution to Refund Overpayment of Taxes (iStar Asset Services, Inc.)

INDIVIDUAL RESOLUTIONS

- 2016-240 Resolution Authorizing the Payment of Bills in the Amount of \$2,066,280.39

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Jesse Kendle, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

- 2016-244 Rejecting Request for Proposals for Consultant Services for the EPA Grant – Brownfield Hazardous Assessment

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

- 2016-242 Adopting the Monmouth County Home Consortium FU 2017 Annual Action Plan for Housing and Community Development Programs

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

2016-243 A Resolution Of The Mayor And Council Of The City Of Asbury Park, Acting As The Waterfront Redevelopment Entity, Authorizing The Issuance Of Certificate Of Completion To Madison Asbury Retail, Llc, For The 3rd Avenue Pavilion

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

2016-245 Return of Certain Properties

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jesse Kendle, Councilmember
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

2016-247 Resolution of the City of Asbury Park Making Application to the Local Finance Board Seeking Authorization for not to Exceed \$17,500,000 Redevelopment Area Bonds to Finance the Construction and Installation of Certain Infrastructure Improvements within a Portion of the Asbury Park Waterfront Redevelopment Area Pursuant To N.J.S.A. 40A:12A-29(A)(3) and N.J.S.A. 40A:12A-67

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jesse Kendle, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

ORDINANCES

Introduction

2016-36 An Ordinance Vacating A Portion Of Lee's Lane Right Of Way Asbury Park, New Jersey

Public hearing is scheduled for October 26, 2016.

RESULT:	INTRODUCED [UNANIMOUS]
	Next: 10/26/2016 7:00 PM
MOVER:	Jesse Kendle, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

2016-35 An Ordinance Amending an Ordinance Entitled ‘Streets, Sidewalks and Sidewalk Signs; Work within City Right-of-Way Areas’ Chapter 16-1 of the Revised General Ordinances of the City of Asbury Park, Monmouth County, and State of New Jersey

Public hearing is scheduled for October 26, 2016.

RESULT:	INTRODUCED [UNANIMOUS]
	Next: 10/26/2016 7:00 PM
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

2016-37 Approving and Adopting an Amendment to the Central Business District Redevelopment Plan Relating to the Sections Titled Parking and Circulation, Cookman Avenue Retail Core and to Implementation of Redevelopment Plan

City Attorney Raffetto explained that the ordinance was referred to the planning board for review and recommendations as to whether the proposed amendments to the CBD plan are consistent with the Master Plan. Although the planning board does not recommend Exhibit “C” as expressed in the board’s resolution, the Council can still adopt the amendment as a resolution with a vote of the full majority and reasons stated on the record.

The Municipal Council moved to pass all the proposed Exhibits of the CBD plan and expressed that they believed that all the amendments were in agreement with the Asbury Park Master Plan.

Public hearing is scheduled for October 26, 2016.

RESULT:	INTRODUCED [UNANIMOUS]
	Next: 10/26/2016 7:00 PM
MOVER:	Jesse Kendle, Councilmember
SECONDER:	Eileen Chapman, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

2016-38 Ordinance of the City of Asbury Park Authorizing the Execution of a Financial Agreement with AP Block 176 Venture Urban Renewal LLC and Granting a Tax Exemption

Public hearing is scheduled for November 9, 2016.

RESULT:	INTRODUCED [UNANIMOUS]
	Next: 11/9/2016 7:00 PM
MOVER:	Yvonne Clayton, Councilmember
SECONDER:	Eileen Chapman, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

2016-39 An Ordinance of the City of Asbury Park, in the County of Monmouth, State of New Jersey, Providing for the Special Assessment of the Cost of Certain Wastewater, Stormwater, Roadway, Streetscape, Utility and Other Infrastructure Improvements on

Block 4002, Lot 1 within the Asbury Park Waterfront Redevelopment Area and
Establishing a Mechanism for Payment of the Cost Thereof

RESULT:	INTRODUCED [UNANIMOUS]
	Next: 11/9/2016 7:00 PM
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

Second Reading/Public Hearing

2016-31 BOND ORDINANCE PROVIDING FOR VARIOUS COMMUNICATION SYSTEM IMPROVEMENTS, BY AND IN THE CITY OF ASBURY PARK, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING \$1,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,428,571 BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF

RESULT:	TABLED [UNANIMOUS]
	Next: 10/26/2016 7:00 PM
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton, Jesse Kendle
ABSENT:	John Moor

2016-33 An Ordinance Amending and Supplementing Chapter XX “Environmental Regulations”, by Adding Subsection 20-1.7 “Private Catch Basin Retrofitting” of the “Revised General Ordinances of the City of Asbury Park, New Jersey

RESULT:	ADOPTED [3 TO 0]
MOVER:	Yvonne Clayton, Councilmember
SECONDER:	Eileen Chapman, Councilmember
AYES:	Amy Quinn, Eileen Chapman, Yvonne Clayton
ABSTAIN:	Jesse Kendle
ABSENT:	John Moor

ADJOURNMENT

The meeting was adjourned at 8:30 PM

Respectfully submitted by:

Cindy A. Dye, RMC, City Clerk