FINANCIAL AGREEMENT FOR LONG TERM TAX EXEMPTION
N.J.S.A. 40A:20-1 *et seq.*

By and Between

TOWNSHIP OF LIVINGSTON

and

45 PARTNERS URBAN RENEWAL, LLC

Dated: ______________________________, 2025

FINANCIAL AGREEMENT

THIS FINANCIAL AGREEMENT (hereinafter this "**Agreement**" or "**Financial Agreement**") is made this __ day of ______________________, 2025 (the "**Effective Date**") by and between **45 PARTNERS URBAN RENEWAL, LLC** (as further defined herein, the "**Entity**"), a New Jersey limited liability company and an urban renewal entity qualified to do business under the provisions of the Long Term Tax Exemption Law, *N.J.S.A.* 40A:20-1 *et seq.*, as amended and supplemented (the "**Exemption Law**"), with offices at 16 Microlab Road, Suite A, Livingston, New Jersey 07039, and the **TOWNSHIP OF LIVINGSTON**, a municipal corporation of the State of New Jersey, having an address at 357 S. Livingston Avenue, Livingston, New Jersey 07039 (the "**Township**"; together with the Entity, the "**Parties**"; each, a "**Party**").

W I T N E S S E T H :

WHEREAS, pursuant to the Local Redevelopment and Housing Law, *N.J.S.A.* 40A:12A-1 *et seq.*, as amended from time to time (the "**Redevelopment Law**"), the Township Council (the "**Township Council**") of the Township of Livingston, in the County of Essex, New Jersey (the "**Township**") duly adopted Resolution 18-164 on August 28, 2018, authorizing the Planning Board of the Township (the "**Planning Board**") to undertake a preliminary investigation of properties within the township, identified as Block 3700, Lots 1, 2, 3, 4, 5, 6, 7, 8, 24, 25, 27, 28, 29 and 30, commonly known as 2-4, 12, 14-16, 20, 22, 24, 26-28 and 38 East Mt. Pleasant Avenue; 21 and 19 Arden Road; and 73, 45 and 19 South Livingston Avenue, respectively (hereinafter the "**Study Area**"), to determine whether the Study Area met the criteria set forth in the Redevelopment Law, specifically N.J.S.A. 40A:12A-5, and should be designated as a non-condemnation area in need of redevelopment; and

WHEREAS, the Planning Board engaged Beacon Planning and Consulting Services, LLC, (the "**Planning Consultant**") to conduct the investigation and determine whether the Study Area should be designated as a non-condemnation area in need of redevelopment; and

WHEREAS, the Planning Board received from the Planning Consultant a report setting forth the basis for the investigation and a map depicting the Study Area entitled "Area in Need of Redevelopment Investigation for Block 3700 Lots 1-8, 24, 25, and 27-30" dated October 28, 2020 concerning the determination of the Study Area as an area in need of redevelopment (the "**Report**"); and

WHEREAS, on February 16, 2021, the Planning Board, after providing due notice, conducted a public hearing in accordance with the Redevelopment Law, at which hearing it determined that the Study Area qualified as an area in need of redevelopment and recommended that the Township Council designate the Study Area as an area in need of redevelopment pursuant to the criteria and requirements of the Redevelopment Law; and

WHEREAS, on February 22, 2021, by Resolution No. 21-099, after notice and hearing by the Planning Board in accordance with the provisions of the Redevelopment Law, the Township

Council designated the Study Area as a non-condemnation area in need of redevelopment (the "**Redevelopment Area**"); and

WHEREAS, in order to effectuate the redevelopment of the Redevelopment Area, and pursuant to the authority granted under the Redevelopment Law, the Township caused the Planning Consultant to prepare a redevelopment plan for the Redevelopment Area entitled, "45 South Livingston Avenue District Redevelopment Plan", dated November 2023 (the "**Redevelopment Plan**"); and

WHEREAS, in accordance with the criteria set forth in the Redevelopment Law, by Ordinance 19-2023 adopted on November 27, 2023, the Township Council adopted the Redevelopment Plan; and

WHEREAS, pursuant to *N.J.S.A.* 40A:12-4, the Township has determined to act as the "redevelopment entity" (as such term is defined at *N.J.S.A.* 40A:12A-3 of the Redevelopment Law) for the Redevelopment Area; and

WHEREAS, the Redevelopment Law authorizes the redevelopment entity to arrange or contract for the planning, construction or undertaking of any development project or redevelopment work in an area designated as an "area in need of redevelopment" pursuant to *N.J.S.A.* 40A:12A-8; and

WHEREAS, the Entity is the contract purchaser of a portion of the Redevelopment Area, specifically, Block 3700, Lots 28, 29, and 30, commonly known as 19 and 45 South Livingston Avenue (the "**Project Site**", as depicted in **Exhibit A** attached hereto) and proposes to construct a four (4) and five (5) story residential building with 226 residential units, of which fourteen (14) units shall be designated as special needs housing and an additional seventeen (17) units shall be designated as affordable housing units (the "**Affordable Housing Units**"), a connected one (1) story retail building of approximately 17,985 square feet, approximately 494 parking spaces, indoor and outdoor amenities, including but not limited to entertainment lounges, a fitness center, private meeting rooms, a pool with lounge seating, outdoor bar area, grilling stations, and dining areas, together with certain related on-site and off-site improvements (the "**Project**"); and

WHEREAS, the Township and the Entity have entered into that certain Redevelopment Agreement dated ____________________________, 2025 (the "**Redevelopment Agreement**"), approved on March 12, 2025 by Resolution No. 25-128 of the Township Council, to effectuate the redevelopment of the Project Site and specify the respective rights and responsibilities of the Parties with respect to the Project; and

WHEREAS, the Entity has submitted an application to the Township for the approval of a long-term tax exemption (the "**Long Term Tax Exemption**") for the Project pursuant to the Exemption Law, which application is attached hereto as **Exhibit B** (the "**Application**"); and

WHEREAS, on March 10, 2025, the Township Manager recommended to the Township Council that the Application be approved and provided that all legal prerequisites are met; and

WHEREAS, on April 7, 2025, by Ordinance 13-2025 (the "**Ordinance**"), the Township Council approved the Application, subject to the terms and conditions of this Financial Agreement and authorized the execution of this Financial Agreement; and

WHEREAS, pursuant to this Financial Agreement, the Township, and the Entity desire to set forth in detail their mutual rights and obligations with respect to the Long Term Tax Exemption; and

WHEREAS, the Township Council has reviewed the Application and has made the following findings:

A. **Benefits of Project v. Costs.**

i. The development and construction of the Project, as set forth in the Redevelopment Agreement and Redevelopment Plan, will be beneficial to the overall community; will achieve the goals and objectives of the Redevelopment Plan; will help revitalize the Project Site; will improve the quality of life for the community; will serve as a catalyst for further private investment in areas surrounding the Project Site and will enhance the economic development of the Township.

ii. It is anticipated that the development of the Project will create approximately 200 full-time equivalent construction jobs over the duration of the construction of the Project, as well as approximately 10 full-time permanent jobs in connection with the operation of the Project.

iii. Pursuant to this Financial Agreement, the Project is projected to generate revenue for the Township in the first year well in excess of the municipal revenue generated by *ad valorem* taxes in 2023. The benefits to the Township accruing as a result of the Project, including the generation of jobs, the revitalization and environmental remediation of the Project Site, and the generation of municipal revenues, will substantially outweigh any incremental costs to the Township resulting from the Long Term Tax Exemption granted herein.

B. **Importance of Long Term Tax Exemption.**

The Township Council's approval of the Long Term Tax Exemption set forth herein is essential to the success of the Project because:

i. The relative stability and predictability of the Annual Service Charge (as defined below) associated with the Project will make it more attractive to financial institutions whose participation is necessary in order to finance the Project.

ii. The relative stability and predictability of the Annual Service Charge will allow the Entity to provide a high level of maintenance for the Project Site and will have a positive impact on the surrounding area and community.

iii. The financial benefit conferred by the Long Term Tax Exemption is a critical incentive for the Entity to undertake the Project due to the extraordinary costs associated with the development of the Project. In light of market conditions and other economic factors impacting this Project, it is not financially feasible to undertake the development of this Project in the absence of the tax exemption. For this reason, it is critical for the Entity that it receives the Long Term Tax Exemption as it would not be able to raise the debt and equity required to locate its business in the Township without this exemption.

iv. The Township Council has determined that the Project will result in significant economic and societal benefits and that such benefits are far greater to the Township than the costs, if any, associated with this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties to this Agreement mutually covenant and agree as follows:

ARTICLE I
GENERAL PROVISIONS

Section 1.1 Governing Law

This Financial Agreement shall be governed by the provisions of the Exemption Law, the Redevelopment Law, the Ordinance, and all other Applicable Laws, as defined below. It is expressly understood and agreed that the Township has relied upon the facts, data, and representations contained in the Application in granting the Long Term Tax Exemption and the Application is hereby incorporated into this Financial Agreement by reference.

Section 1.2 General Definitions and Construction

The recitals and exhibits to this Agreement are hereby incorporated by reference herein as if set forth at length. Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement, the following terms and phrases shall have the following respective meanings:

a. **Affiliate** – With respect to any person or entity, any other person or entity directly or indirectly Controlling or Controlled by, or under direct common Control with, such person or entity.

b. **Agreement or Financial Agreement** – Shall have the meaning specified in the preamble hereof.

c. **Allowable Net Profit (also referred to as "ANP")** – The amount arrived at by applying the Allowable Profit Rate pursuant to the provisions of *N.J.S.A.* 40A:20-3.

d. **Allowable Profit Rate (also referred to as the "APR")** – The greater of twelve percent (12%) or the percentage per annum arrived at by adding one and one-quarter percent (1.25%) to the annual interest percentage rate payable on the Entity's initial permanent mortgage financing for the Project. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, 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 APR shall be the greater of twelve (12%) percent or the percentage per annum arrived at by adding one and one-quarter (1.25%) percent to the prevailing per annum interest rate on mortgage financing on comparable improvements within Essex County. The provisions of *N.J.S.A.* 40A:20-3(b) are incorporated herein by reference.

e. **Annual Administrative Fee** – Shall have the meaning specified in Section 4.9 hereof.

f. **Annual Audited Statement** – Shall mean a complete financial statement outlining, in accordance with N.J.S.A. 40A:20-3(c)(2), the calculation of net profit for the Entity during the previous year, prepared annually by the Entity's certified public accountant. The contents of each Annual Audited Statement shall be prepared in conformity with Generally Accepted Accounting Principles, the Exemption Law, and this Financial Agreement.

g. **Annual Gross Revenue (also referred to as the "AGR")** – Annual gross revenue for the Project shall be determined pursuant to the Exemption Law and the terms of this Financial Agreement. Pursuant to N.J.S.A. 40A:20-3(a), the annual gross revenue shall be limited to one hundred percent (100%) of the base rental charges and any other monies or charges paid to the Entity and shall not include any of the following: Common Area Maintenance charges, Annual Service charges or taxes of any kind, management fees, or any insurance charges.

h. **Annual Service Charge (also referred to as the "ASC")** – The total annual amount that the Entity has agreed to pay the Township for municipal services supplied to the Project, which sum is in lieu of any taxes on the Project Site and the Improvements pursuant to the Exemption Law, which amount shall be prorated in the year in which the Annual Service Charge begins and the year in which the Annual Service Charge terminates. The Annual Service Charge shall be calculated pursuant to Article IV hereof.

i. **Applicable Law** – Shall mean any and all federal, state, and local laws, rules, regulations, rulings, court orders, statutes, and ordinances applicable to the Project, the Project Site, and the Long Term Tax Exemption.

j. **Application** – Shall have the meaning specified in the recitals of this Financial Agreement.

k. **ASC Commencement Date** – The first day of the month immediately following the Substantial Completion of any portion of the Project.

l. **Certificate of Occupancy** – A temporary or permanent certificate of occupancy issued by the appropriate Township official, pursuant to *N.J.S.A.* 52:27D-133.

m. **Control** – As used with respect to any person or entity, shall mean possession, directly or indirectly, of the power to direct or cause the direction of the management and operation of such person or entity, whether through the ownership of voting securities or by contract or other written agreements.

n. **Days** – Whenever the word "Days" is used to denote time, it shall mean calendar days.

o. **Debt Service** – The amount required to make annual payments of principal and interest or the equivalent thereof on any construction mortgage, permanent mortgage or other financing including returns on institutional equity financing and market rate related party debt for the Project for a period equal to the term of the Long Term Tax Exemption granted by this Financial Agreement.

p. **Default** – A breach or failure of the Township or the Entity to perform any obligation imposed by the terms of this Financial Agreement, or under the Exemption Law, beyond any applicable grace or cure periods set forth in this Financial Agreement. In addition, a Default under the Redevelopment Agreement, which has not been cured in accordance with the terms of the Redevelopment Agreement, for failure to commence or complete construction in accordance with the Redevelopment Agreement, shall constitute a Default under this Agreement.

q. **Effective Date** – The date that this Agreement has been executed by both Parties.

r. **Entity** – Shall mean the entity specified in the preamble of this Financial Agreement, which shall be qualified as an urban renewal entity under the Exemption Law. Unless the context provides otherwise, it shall also include any permitted Transferee, which shall also be qualified as an urban renewal entity under the Exemption Law as set forth in Section 8.1 hereof.

s. **Excess Net Profits** – The amount of Net Profits that exceeds the Allowable Net Profits (ANP) for the applicable accounting period as determined in accordance with the Exemption Law.

t. **Exemption Law** – Shall have the meaning specified in the preamble of this Financial Agreement.

u. **Improvements** – Any building, structure or fixture comprising the Project which is permanently affixed to the Project Site to be constructed and exempt under this Agreement.

v. **Land Taxes** – The amount of any real estate taxes levied on the Project Site, exclusive of any Improvements related thereto.

w. **Land Tax Credit** – Shall have the meaning specified in Section 4.4 of this Financial Agreement.

x. **Long Term Tax Exemption** – Shall have the meaning specified in the recitals of this Financial Agreement.

y. **Minimum Annual Service Charge** – The Land Taxes levied against the Project Site in the last full tax year in which the Project Site was subject to taxation.

z. **Net Profit** – Gross revenues 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), but: (1) there shall be included in expenses: (a) all Annual Service Charges paid pursuant to *N.J.S.A.* 40A:20-12; (b) all payments to the municipality of excess profits pursuant to *N.J.S.A.* 40A:20-15 or *N.J.S.A.* 40A:20-16; (c) an annual amount sufficient to amortize the Total Project Cost and all capital costs determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, over the term of the abatement as set forth in this Financial Agreement; (d) all reasonable annual operating expenses of the Entity and any other entity whose revenue is included in the computation of Excess Profits, including the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies, and payments into repair or maintenance reserve accounts; (e) all payments of rent including, but not limited to, ground rent by the Entity (if applicable); (f) all Debt Service; and (2) there shall not be included in expenses either depreciation or obsolescence, interest on debt, except interest which is part of Debt Service, income taxes, or salaries, bonuses or other compensation paid, directly or indirectly to directors, officers and stockholders of the Entity, or officers, partners or other persons holding any proprietary ownership interest in the Entity. For purposes of Net Profit all of the revenues of the related-entity tenant generated by the Project shall be excluded in calculating Net Profit.

aa. **Ordinance** – Shall have the meaning specified in the recitals of this Financial Agreement.

bb. **Party or Parties** – Shall have the meaning specified in the preamble of this Financial Agreement.

cc. **Payment Default** – Shall have the meaning specified in Section 5.4 of this Financial Agreement.

dd. **Project** - Shall have the meaning specified in the recitals of this Financial Agreement.

ee. **Redevelopment Agreement** – Shall have the meaning specified in the recitals of this Financial Agreement.

ff. **Redevelopment Area** – Shall have the meaning specified in the recitals of this Financial Agreement.

gg. **Redevelopment Law** – Shall have the meaning defined in the recitals of this Financial Agreement.

hh. **Redevelopment Plan** – Shall have the meaning defined in the recitals of this Financial Agreement.

ii. **Reserve** – Shall have the meaning defined in Section 6.2 of this Financial Agreement.

jj. **Secured Party or Secured Parties** – Shall have the meaning defined in Section 8.3(a) of this Financial Agreement.

kk. **Security Arrangements** – Shall have the meaning defined in Section 8.3(a) of this Financial Agreement.

ll. **Substantial Completion** – The determination by the Township construction official that the Project, in whole or in part, is ready for the use intended, which shall mean the date on which the Project receives, or is eligible to receive, any Certificate of Occupancy for any portion of the Project.

mm. **Termination Date** – The earlier to occur of (i) the thirty-fifth (35^{th}) anniversary of the Effective Date; (ii) the thirtieth (30^{th}) anniversary date of the ASC Commencement Date; or (iii) such other date as this Financial Agreement may terminate pursuant to the terms hereof or pursuant to Applicable Law.

nn. **Total Project Cost** – Shall be as calculated in accordance with Section 3(h) of the Exemption Law.

oo. **Township** – Shall have the meaning specified in the preamble of this Financial Agreement.

pp. **Transferee** – Shall have the meaning specified in Section 8.1 of this Financial Agreement.

Section 1.3 Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations, limited liability companies and other legal entities, including public or governmental bodies, as well as natural persons.

(d) Any headings preceding the texts of the several articles and sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect. All references to articles, sections, or exhibits in this

Agreement shall, unless indicated otherwise, refer to the articles, sections or exhibits in this Agreement.

(e) Unless otherwise indicated, all approvals, consents and acceptances required to be given or made by any person or Party hereunder shall not be unreasonably withheld, conditioned, or delayed.

(f) All notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within a reasonable time, which shall not be less than ten (10) Days nor more than twenty (20) Days, unless the context dictates otherwise.

(g) All exhibits referred to in this Agreement and attached hereto are incorporated herein and made part hereof.

ARTICLE II
PROJECT AND PROPERTY

Section 2.1. Township's Findings

Pursuant to the Exemption Law, the Township finds that the Long Term Tax Exemption granted pursuant to this Financial Agreement will benefit the Township and the community by assuring the success of the redevelopment of the Project Site, which exhibits the statutorily recognized redevelopment criteria. The development and construction of the Project, as set forth in the Redevelopment Agreement and Redevelopment Plan, will be beneficial to the overall community; will achieve the goals and objectives of the Redevelopment Plan; will help revitalize the Project Site, including environmental remediation of the Project Site; will improve the quality of life for the community; is expected to generate 200+ construction jobs and 10 permanent jobs post construction; will serve as a catalyst for further private investment in areas surrounding the Project Site and will enhance the economic development of the Township. The benefits to the Township accruing as a result of the Project, including the generation of jobs, the revitalization of the Project Site, the environmental remediation of the Project Site, and the generation of municipal revenues, will substantially outweigh any incremental costs to the Township resulting from the Long Term Tax Exemption granted herein. The Long Term Tax Exemption is important to the Township and the Entity because without the incentive of the Long Term Tax Exemption, it is unlikely that the Project would be undertaken. The Long Term Tax Exemption will allow the Entity to provide a high level of maintenance for the Project Site.

Section 2.2 Approval of Agreement

The Township hereby approves a Long Term Tax Exemption for the Project, which is to be constructed, operated, and maintained on the Project Site in accordance with the terms and conditions set forth herein, the Redevelopment Agreement, the provisions of the Exemption Law, and other Applicable Law.

Section 2.3 Approval of the Entity

The Township hereby approves of the Entity in reliance upon the Entity's representation that its certificate of formation contains all the requisite provisions of law, has been reviewed and approved by the Commissioner of the New Jersey State Department of Community Affairs, and has been filed with, as appropriate, the New Jersey State Department of Treasury, all in accordance with *N.J.S.A.* 40A:20-5.

Section 2.4 Redevelopment of the Project Site

The Entity agrees that it will develop, construct, operate and maintain the Project in accordance with the terms of the Redevelopment Agreement and the Redevelopment Plan. The final design of the Project shall be as approved by the Planning Board of the Township, in accordance with the Redevelopment Plan.

Section 2.5 Entity's Relationship to Project Site

The Entity is the contract purchaser of the Project Site.

ARTICLE III
OWNERSHIP, MANAGEMENT AND CONTROL

Section 3.1 Entity's Representation

The Entity represents that, prior to the commencement of construction, it shall close title on the Project Site and it shall remain the fee title owner of the Project Site throughout the development and construction of same, subject to its right of transfer in accordance with Section 8.1 hereof and the terms of the Redevelopment Agreement.

Section 3.2 Required Provisions of Financial Agreement

To the extent not otherwise set forth herein, those items required by *N.J.S.A.* 40A:20-9 to be included in this Financial Agreement are set forth in the Application attached hereto as **Exhibit B**, which is incorporated herein as if set forth at length, and the Entity represents and warrants as to the accuracy of the contents thereof. The Entity expressly covenants, warrants, and represents that upon completion, the Project, including all of the Project Site and Improvements, shall be used, managed, and operated for the purposes set forth in the Application, in accordance with the Redevelopment Agreement, Redevelopment Plan and all Applicable Laws.

Section 3.3 Fiscal Plan

The Entity represents that the Improvements shall be financed in accordance with the representations set forth in the Application, including the fiscal plan attached thereto, which is also attached hereto as **Exhibit C**. The Application and fiscal plan set forth, among other things, the estimated Total Project Cost, amortization rates on the Total Project Cost, the source of funds, the interest rates to be paid on construction financing, the source and amount of paid in capital, and the terms of any mortgage amortization.

Section 3.4 Estimated Annual Gross Revenues

The Entity sets forth its good faith projections of the Annual Gross Revenue from the Project in the Fiscal Plan annexed to and made a part of this Financial Agreement at **Exhibit C**.

ARTICLE IV
LONG TERM TAX EXEMPTION; ANNUAL SERVICE CHARGE

Section 4.1 Term

Subject to compliance with this Agreement, this Agreement shall be in effect from the Effective Date through the Termination Date. However, in no case shall this Agreement remain in effect longer than 35 years from the Effective Date. Upon the expiration of this Agreement, (i) the tax exemption for the Project shall expire and the Project Site and the Improvements thereon shall thereafter be assessed and taxed according to the general law applicable to other non-exempt property in the Township, and (ii) any restrictions and limitations upon the Entity shall terminate upon such Entity's rendering and the Township's acceptance of its final accounting to the Township, pursuant to *N.J.S.A.* 40A:20-13.

Section 4.2 Calculation of Annual Service Charge

In consideration of the Township granting the Entity the Long Term Tax Exemption set forth in this Financial Agreement, the Entity shall pay to the Township for municipal services supplied to the Project, as provided in the Exemption Law. The Annual Service Charge shall be reviewed and shall be adjusted in stages over the term of this Agreement in accordance with *N.J.S.A.* 40A:20-12(b) as follows:

(a) **Stage One**: From the ASC Commencement Date until the 5^{th} anniversary of the ASC Commencement Date (i.e., for years 1 through 5), the Annual Service Charge shall be the greater of (i) the Minimum Annual Service Charge or (ii) eleven and one-half percent (11.5%) of AGR;

(b) **Stage Two**: From the first day after the 5^{th} anniversary of the ASC Commencement Date until the 6^{th} anniversary of the ASC Commencement Date (i.e., for year 6), the Annual Service Charge shall be equal to the greater of (i) the Minimum Annual Service Charge; or (ii) thirteen percent (13%) of AGR;

(c) **Stage Three**: From the first day after the 6^{th} anniversary of the ASC Commencement Date until the 10^{th} anniversary of the ASC Commencement Date (i.e., for years 7 through 10), the Annual Service Charge shall be equal to the greater of (i) the Minimum Annual

Service Charge; (ii) thirteen percent (13%) of AGR; or (iii) twenty percent (20%) of the amount of the taxes otherwise due on the value of the Project Site and the Improvements;

(d) **Stage Four**: From the first day after the 10^{th} anniversary of the ASC Commencement Date until the 12^{th} anniversary of the ASC Commencement Date (i.e., for years 11 and 12), the Annual Service Charge shall be equal to the greater of (i) the Minimum Annual Service Charge; (ii) fourteen and one-half percent (14.5%) of AGR; or (iii) twenty percent (20%) of the amount of the taxes otherwise due on the value of the Project Site and the Improvements;

(e) **Stage Five**: From the first day after the 12^{th} anniversary of the ASC Commencement Date until the 18^{th} anniversary of the ASC Commencement Date (i.e., for years 13 through 18), the Annual Service Charge shall be equal to the greater of (i) the Minimum Annual Service Charge; (ii) fourteen and one-half percent (14.5%) of AGR; or (iii) forty percent (40%) of the amount of the taxes otherwise due on the value of the Project Site and the Improvements;

(f) **Stage Six**: From the first day after the 18^{th} anniversary of the ASC Commencement Date until the 20^{th} anniversary of the ASC Commencement Date (i.e., for years 19 and 20), the Annual Service Charge shall be equal to the greater of (i) the Minimum Annual Service Charge; (ii) fourteen and one-half percent (14.5%) of AGR; or (iii) sixty percent (60%) of the amount of the taxes otherwise due on the value of the Project Site and the Improvements;

(g) **Stage Seven**: From the first day after the 20^{th} anniversary of the ASC Commencement Date until the 24^{th} anniversary of the ASC Commencement Date (i.e., for years 21 through 24), the Annual Service Charge shall be equal to the greater of (i) the Minimum Annual Service Charge; (ii) fifteen and one-half percent (15.5%) of AGR; or (iii) sixty percent (60%) of the amount of the taxes otherwise due on the value of the Project Site and the Improvements;

(h) **Final Stage**: From the first day after the 24^{th} anniversary of the ASC Commencement Date until the 30^{th} anniversary of the ASC Commencement Date (i.e., for years 25 through 30), the Annual Service Charge shall be equal to the greater of (i) the Minimum Annual Service Charge; (ii) fifteen and one-half percent (15.5%) of AGR or (iii) eighty percent (80%) of the amount of the taxes otherwise due on the value of the Project Site and the Improvements.

Section 4.3 Minimum Annual Service Charge

Notwithstanding anything to the contrary in this Financial Agreement, including, without limitation, Section 4.2 hereof, the Annual Service Charge for the Project shall not be less than the Minimum Annual Service Charge.

Section 4.4 Land Tax Credit

The Entity, or its Transferee, shall be entitled to a credit against the Annual Service Charge for the amount, without interest, of Land Taxes paid in the prior tax year on the Project (the "**Land Tax Credit**"). For each quarterly payment of the Annual Service Charge in a given tax year, the Land Tax Credit shall be equal to one-fourth of the Land Taxes paid in the previous tax year.

Section 4.5 Quarterly Installments

The Annual Service Charge or the Minimum Annual Service Charge, as the case may be, and if applicable, Land Taxes, shall be paid in quarterly installments on those dates when ad valorem real estate tax payments on other properties within the Township are due, subject to adjustment for over payment or underpayment within thirty (30) Days after the close of each calendar year. If the Entity fails to so pay, the amount unpaid shall bear the highest rate of interest permitted in the case of the unpaid taxes or tax liens on the Project Site until paid. The Entity's failure to make the requisite payments of Annual Service Charge or Minimum Annual Service Charge, or, if applicable, Land Taxes, in a timely manner shall constitute a Default under this Agreement and the Township may, among its other remedies as provided in this Financial Agreement, proceed against the Project pursuant to the In Rem Tax Foreclosure Act, *N.J.S.A.* 54:5-1 *et seq.* In addition, the Township may terminate this Financial Agreement with respect to the Project in accordance with Section 5.4 hereof. Any Default arising out of the Entity's failure to pay the Annual Service Charge, Minimum Annual Service Charge, or, if applicable, Land Taxes, shall not be subject to the dispute resolution remedies provided in Section 5.1.

Section 4.6 Rights and Obligations Related to Long Term Tax Exemption

A. All Annual Service Charge or Minimum Annual Service Charge payments, as the case may be, made pursuant to this Financial Agreement shall be in lieu of taxes and, as set forth above, the Township shall have the rights and remedies of tax enforcement granted to a municipality by Applicable Law, including those of in rem tax foreclosure pursuant to *N.J.S.A.* 54:5-1, just as if said payments constituted regular real property tax obligations on other real properties within the Township.

B. If the ASC Commencement Date occurs on a date other than the last day of a quarter, the amount of ad valorem real estate taxes for such period up to the ASC Commencement Date shall be based on a per diem basis for such quarter.

Section 4.7 Remittance to County

The Township shall remit to the County of Essex five percent (5%) of the Annual Service Charge received each year from the Entity, pursuant to *N.J.S.A.* 40A:20-12(b)(2)(e).

Section 4.8 Payment of Conventional Taxes Prior to ASC Commencement Date

The Parties agree that conventional property taxes, including Land Taxes, are due from time to time in accordance with Applicable Law prior to the ASC Commencement Date.

Section 4.9 Administrative Fee

In addition to the Annual Service Charge, the Township reserves the right to charge the Entity an annual administrative fee (the "**Annual Administrative Fee**") in an amount equal to two percent (2%) of the Annual Service Charge. The Annual Administrative Fee shall be due on or before November 1 in each year following the ASC Commencement Date.

Section 4.10 Other Municipal Services.

Nothing herein shall exempt the Entity from the payment of any applicable municipal services. The Entity shall timely pay for municipal services rendered to the Project or to the Project Site.

ARTICLE V
DISPUTE RESOLUTION; DEFAULT

Section 5.1 Agreement to Arbitrate

If the Township or the Entity breaches this Financial Agreement (other than with respect to a Payment Default, defined herein), or a dispute arises between the Parties regarding the terms and provisions set forth herein, then the Parties shall submit the dispute to arbitration, which shall utilize State law and the arbitration rules of the American Arbitration Association in the State, to be resolved in accordance with its rules and regulations in such fashion as to accomplish the purposes of the Exemption Law and this Financial Agreement. The costs of arbitration shall be borne equally by the Parties involved in the arbitration. The demand for arbitration shall be filed in writing and shall be made within a reasonable time after a dispute or breach occurs. (Section 1.3(F) hereof shall not apply for purposes of the foregoing sentence.) The arbitrator(s) shall make written findings of fact and conclusions of 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 State courts and shall not be limited in any way due to the origin of the action in arbitration.

Notwithstanding the foregoing, if the Entity fails to pay the Annual Service Charge, Minimum Annual Service Charge, or if applicable, Land Taxes, the Township among its other remedies, reserves the right to proceed against the Project pursuant to *N.J.S.A.* 54:5-1 to 54:5-129, and any Act supplementary or amendatory thereof, and shall not be required to submit such matters to arbitration. Whenever the word "Taxes" appears or is applied, directly or implied, to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this Agreement, as if the Annual Service Charge are taxes or municipal liens on land.

Section 5.2 Covenant to Make Payments

The Entity agrees that timely payment of the Land Taxes (during any period in which Land Taxes are not exempt hereunder), the Minimum Annual Service Charge and/or the Annual Service Charge to the Township, as well as continued compliance with Applicable Laws, are material conditions of this Financial Agreement. The failure to make any of the aforesaid payments in timely fashion shall constitute both a breach of this Financial Agreement and a tax payment delinquency under Applicable Law.

Section 5.3 Remedies upon Default

All of the remedies provided in this Agreement, and all rights and remedies granted to the parties by law and equity, shall be cumulative and concurrent. No termination of any provision within this Agreement shall deprive the Township of any of its remedies in accordance with law or actions against the Entity because of its failure to pay Land Taxes (during any period in which Land Taxes are not exempt hereunder), the Annual Service Charge, and/or water and sewer charges with interest payments. The bringing of any action due to a Default under this Agreement shall not be construed as a waiver of the right to enforce any other remedy provided in this Agreement. Nothing in this Agreement shall be deemed to create personal liability on the part of any Entity for any of the provisions of this Agreement, the Township's rights, and remedies to collect any obligation due and owing hereunder to be the same as the Township's rights and remedies with respect to collection of real estate taxes generally under applicable law.

Section 5.4 Notification of Breach Required

Other than with respect to the nonpayment or late payment of all or a portion of Land Taxes, the Administrative Fee, Annual Service Charge or Minimum Annual Service Charge (any of the foregoing a "**Payment Default**"), the Township shall notify the Entity in writing of any breach relating to the terms of this Financial Agreement. If the Entity fails to cure a Payment Default within ten (10) Days of its occurrence, or fails to cure any other breach within thirty (30) Days after the actual delivery of notice by the Township, or within any additional periods to which the Parties may agree to, in writing (with respect to Defaults other than Payment Defaults, the Township shall not unreasonably refuse to grant a reasonable extension of the cure period, not to exceed sixty (60) Days after the notice unless the Township in its sole discretion shall agree to a longer cure period), the Township may invalidate the Long Term Tax Exemption by providing thirty (30) Days' written notice to the Entity, which shall inform the Entity that the Long Term Tax Exemption shall terminate at the expiration of said thirty (30) Day notice period due to the breach of the terms of this Financial Agreement. In addition, if the Redevelopment Agreement has been terminated in accordance with its terms, this Financial Agreement shall also automatically terminate.

Section 5.5 Force Majeure

Neither Party shall be liable to the other for failure to perform its obligations under this Agreement due to causes that are beyond the reasonable control and not substantially due to the fault or negligence of the party seeking to excuse delay or failure of performance of an obligation hereunder by reason thereof, including, but not limited to, declarations of public emergency; acts of nature (as to weather-related events, limited to severe and unusual events or natural occurrences such as hurricanes, tornadoes, earthquakes, and floods); acts of the public enemy; acts of terrorism; acts of war; fire; epidemics; quarantine restrictions; blackouts, power failures or energy shortages; governmental embargoes; strikes or similar labor action by equipment or material suppliers or transporters, or unavailability of necessary building materials. Notwithstanding the foregoing, the payment of Land Taxes (during any period in which Land Taxes are not exempt hereunder), Annual Service Charge, Minimum Annual Service Charge and Administrative Fee are material conditions of this Agreement which shall not be excused by the occurrence of a force majeure event.

Section 5.6 Certificate of Occupancy

It is understood and agreed that it shall be the obligation of the Entity to obtain all Certificates of Occupancy in a reasonably timely manner. The Township shall reasonably and diligently cooperate in processing the Entity's request(s) for the issuance of any Certificate(s) of Occupancy.

Section 5.7 Filing of Certificate of Occupancy

It shall be the responsibility of the Entity to forthwith file with both the Tax Assessor and the Tax Collector of the Township a copy of any Certificate of Occupancy issued for the Project. Failure of the Entity to file such issued Certificate of Occupancy as required by the preceding paragraph shall not militate against any action or non-action taken by the Township, including, if appropriate, retroactive billing with interest for any charges determined to be due, in the absence of such filing by the Entity.

ARTICLE VI
LIMITATION ON PROFITS

Section 6.1 Entity's Covenant of Limitation on Profits

During the period of the Long Term Tax Exemption, the Entity shall be subject to a limitation of its profits pursuant to the provisions of *N.J.S.A.* 40A:20-15. Such calculation is completed in accordance with generally accepted accounting principles pursuant to *N.J.S.A.* 40A:20-3(c).

Section 6.2 Permitted Reserves

The Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount up to ten percent (10%) of the Annual Gross Revenues of the Entity for the prior fiscal year (hereinafter referred to as the "**Reserve**") and may retain such part of the Excess Net Profits as is necessary to eliminate a deficiency in that Reserve, as provided in *N.J.S.A.* 40A:20-15.

Section 6.3 Payment of Dividend and Excess Profit Charge

In accordance with *N.J.S.A.* 40A:20-15, if the Net Profits of the Entity shall exceed the Allowable Net Profits in any accounting period, then the Entity, within ninety (90) Days after the end of the accounting period, shall pay such Excess Net Profits to the Township as an additional Annual Service Charge; provided, however, that the Entity may maintain a Reserve as determined pursuant to Section 6.2.

Section 6.4 Payment of Reserve/Excess Net Profit Upon Termination, Expiration or Sale.

The Termination Date of this Agreement, or the date of sale or transfer of the Improvements, shall be considered to be the close of the fiscal year of the Entity. Within ninety (90) Days after such date, the Entity shall pay to the Township the amount of the Reserve, if any, maintained by it pursuant to Section 6.2, and the Excess Net Profits, if any. The Parties agree that, pursuant to N.J.S.A. 40A:20-3(a), any gain realized by the Entity on a sale or transfer shall not be included in the calculation of Excess Net Profits.

ARTICLE VII
TERMINATION OF AGREEMENT AND INSPECTIONS

Section 7.1 Voluntary Termination of the Financial Agreement by Entity

Pursuant to the Exemption Law, the Entity or any Transferee may at any time after the expiration of one (1) year from the ASC Commencement Date, notify the Township in writing that, as of a certain date designated in the notice, it relinquishes its status as an urban renewal entity under the Exemption Law and that the Entity, or Transferee, has obtained the consent of the Commissioner of the Department of Community Affairs, if required by Applicable Law. As of that date, all of the obligations and requirements contained in this Financial Agreement shall terminate. Notwithstanding the foregoing, such relinquishment shall not impact the obligation of the Entity or the Transferee, as applicable, to make payment of any Administrative Fee, Land Taxes (during any period in which Land Taxes are not exempt hereunder), Annual Service Charge, or Minimum Annual Service Charge that has accrued up to and including the Termination Date, or the obligation of the Entity or the Transferee, as applicable, to perform the final accounting required by the Exemption Law and Section 7.2 below.

Section 7.2 Termination and Final Accounting

Within ninety (90) Days after the Termination Date, whether by affirmative action of the Entity or by virtue of the provisions of the Applicable Law or pursuant to the terms of this Financial Agreement, the Entity shall provide a final accounting and pay to the Township the Reserve, if any, pursuant to *N.J.S.A.* 40A:20-15, as well as any Excess Net Profits, if any, payable as of that date. For purposes of rendering a final accounting, the Termination Date of the Financial Agreement shall be deemed to be the end of the fiscal year for the Entity.

Section 7.3 Taxes After Termination Date

After the Termination Date, the Long Term Tax Exemption shall expire, and the relevant portion of the Project Site and the Improvements constructed thereupon shall thereafter be assessed and conventionally taxed according to Applicable Law as other real property in the Township.

Section 7.4 Rights of Inspection

The Entity shall permit the inspection of its property, equipment, buildings, and other facilities of the Project by representatives duly authorized by the Township and Division of Local Government Services in the Department of Community Affairs pursuant to *N.J.S.A.* 40A:20-9(e). The Entity shall also permit, upon written request, examination and audit of its books, contracts, records, documents, and papers relating to the Project by representatives duly authorized by the Township and Division of Local Government Services in the Department of Community Affairs pursuant to *N.J.S.A.* 40A:20-9(e). Such inspection shall be made upon seven (7) Days' prior written notice during regular business hours, in the presence of an officer or agent designated by the Entity. To the extent reasonably possible, the inspection will not materially interfere with construction or operation of the Project. Nothing in this section shall be construed to affect, limit, or restrict the powers of municipal, county, State, or other officials from carrying out those inspections that are generally applicable outside of the Exemption Law context, including, but not limited to, inspections by fire officials, construction code officials, etc.

ARTICLE VIII
SALE OR LEASE OF PROJECT

Section 8.1 Approval of Sale of Project to Entity Formed and Eligible to Operate Under Applicable Law

The Entity shall not transfer all or any portion of the Project without the prior written approval of the Township, except that after completion of the Project, the Entity shall be permitted to transfer all or any portion of the Project to another urban renewal entity, qualified and organized under the Exemption Law (a "**Transferee**") and approved by the Township under the conditions set forth herein. As permitted by *N.J.S.A.* 40A:20-10a, it is understood and agreed that the Township, on written application by the Entity after completion of the Project, shall consent to a sale of the Project and the transfer of this Agreement, which consent shall not be unreasonably withheld, provided: (i) the Transferee entity does not own or lease any other Project subject to long term tax exemption at the time of transfer; (ii) the Transferee entity is formed and eligible to operate under the Exemption Law; (iii) the Entity is not then in Default of the Redevelopment Agreement, this Agreement or the Exemption Law; (iv) the Entity's obligations under this Agreement are fully assumed by the Transferee; (v) the Transferee agrees to abide by all terms and conditions of this Agreement including, without limitation, the filing of an application pursuant to *N.J.S.A.* 40A:20-8, and any other terms and conditions of the Township in regard to the Project; (vi) the Transferee possesses the requisite experience, qualifications, and financial capacity to operate and manage the Project; and (vii) the principal owners of the Transferee possess the same business reputation, financial qualifications and credit worthiness as the Entity and are otherwise reputable. The Township may charge an administrative fee of two percent (2%) of the Annual Service Charge due in the year that the transfer is requested for processing any such application for transfer by the Entity. Notwithstanding anything to the contrary in this Section, a transfer of ownership interests that occurs by inheritance, devise or bequest or by operation of law to the spouse, child, grandchild, or other family member of Interest Holders, or a trust established for the benefit of such a spouse, child, grandchild, or family member, shall not be in violation of this restriction and shall not require prior approval of the Township.

Notwithstanding the above, it is expressly understood and agreed that the Entity is permitted, without the prior approval of the Township, to effect the following transfers with respect to the Project:

A. Encumber the Project, e.g., mortgage financing, development easements, etc., provided that any such encumbrance is subordinate to the lien of the Annual Service Charges.

B. Transfer the ownership interest in the Entity to an Affiliate, or any indirect or direct transfer of any interest in the Entity to a person or entity not presently holding an interest in the Entity, provided that the Transfer is for less than 50% interest of the ownership interest of the Entity and otherwise does not change control of the Entity, or transfer of an ownership interest in the Entity to limited, non-controlling partners, i.e., investor, who is not an Affiliate.

C. Lease any portion of the Project to an end user, with such user not being required to be an entity eligible to operate under the Exemption Law.

D. Notwithstanding anything to the contrary contained in A. through C., above, or elsewhere in this Agreement, the Parties expressly agree and acknowledge that:

(i) the Entity shall not enter into any lease, whether or not with an Affiliate or related entity, that shall operate to minimize or remove revenues properly includable in the calculation of Annual Gross Revenue; and

(ii) prior to completion of the Project, all restrictions on transfer that are set forth in the Redevelopment Agreement shall apply in accordance with the terms thereof.

Section 8.2 Obligations of Entity and Transferee after Conveyance

If the Entity transfers the Project to a Transferee with the consent of the Township and the Transferee has assumed the contractual obligations of the Entity pursuant to Section 8.1 hereof, then the Entity shall be absolutely discharged from any further obligations regarding the Project and shall be qualified to undertake another project pursuant to the Exemption Law. Within ninety (90) Days after the date of a transfer, the Entity shall pay to the Township any Reserve maintained by it pursuant to this Financial Agreement, as well as any Excess Net Profits payable to the Township pursuant to this Financial Agreement and the Exemption Law.

Section 8.3 Collateral Assignment

It is expressly understood and agreed that the Entity has the right, to the extent permitted by the Exemption Law and the Redevelopment Agreement, to encumber and/or assign its fee title to the Project Site and/or Improvements for purposes of (i) financing the design, development, and construction of the Project and (ii) permanent mortgage financing with respect to the Project.

(a) The Township acknowledges that the Entity and/or its Affiliates intend to obtain secured financing in connection with the acquisition, development, and construction of the Project. The Township agrees that the Entity and/or its Affiliates may, subject to compliance with the Redevelopment Agreement (if then still in effect) and the Exemption Law, assign, pledge, hypothecate or otherwise transfer its rights under this Agreement and/or its interest in the Project to one or more secured parties or any agents therefore (each, a "**Secured Party**" and collectively, the "**Secured Parties**") as security for obligations of the Entity, and/or its Affiliates, incurred in connection with such secured financing (collectively, the "**Security Arrangements**"). The Entity shall give the Township written notice of any such Security Arrangements, together with the name and address of the Secured Party or Secured Parties. Failure to provide such notice waives any requirement of the Township hereunder to provide any notice of Default or notice of intent to enforce its remedies under this Agreement.

(b) If the Entity shall Default in any of its obligations hereunder, the Township shall give written notice of such Default to the Secured Parties and the Township agrees that, in the event such Default is not waived by the Township or cured by the Entity, its assignee, designee or successor, within the period provided for herein, before exercising any remedy against the Entity hereunder, the Township will provide the Secured Parties a reasonable period of time to cure such Default, but in any event not less than twenty (20) Days from the date of such notice to the Secured Parties with regard to a Payment Default by the Entity and ninety (90) Days from the date the Entity was required to cure any other Default.

(c) In the absence of a Default by the Entity, the Township agrees to consent to any collateral assignment by the Entity to any Secured Party or Secured Parties of its interests in this Agreement and to permit each Secured Party to enforce its rights hereunder and under the applicable Security Arrangement and shall, upon request of the Secured Party, execute such documents as are typically requested by secured parties to acknowledge such consent. This provision shall not be construed to limit the Township's right to payment from the Entity, nor shall the priority of such payments be affected by the Secured Party exercising its rights under any applicable Security Arrangement.

ARTICLE IX
ENTITY'S COVENANTS AND REPRESENTATIONS

Section 9.1 Management and Operation

Subject to its right to transfer the Project pursuant to Section 8.1 of this Financial Agreement, the Entity represents and covenants that the Entity will manage the Project or will contract with a third party management company. The Entity shall be free to enter into leases for the Project without consent of the Township.

Section 9.2 Computation of Gross Revenue

The Entity shall, for the duration of this Agreement, calculate the Annual Gross Revenue in accordance with the Exemption Law and this Financial Agreement and the computation of Annual Gross Revenue shall be shown on the Entity's Annual Audited Statement.

Section 9.3 Annual Audit Report

For so long as the Entity owns the Project and within ninety (90) Days after the close of each fiscal or calendar year (depending on the Entity's accounting basis) that this Financial Agreement shall continue in effect, the Entity shall submit to the Mayor, the Township Council, the CFO of the Township, the Township Manager, and the New Jersey Division of Local Government Services within the New Jersey Department of Community Affairs, its Annual Audited Statement for the preceding fiscal or calendar year in accordance with the Exemption

Law. The report shall clearly identify and calculate the Net Profit for the Entity during the previous fiscal year. The Entity assumes all costs associated with preparation of the Annual Audited Statements. Except to the extent required by Applicable Law, all financial information provided hereunder shall remain confidential and not subject to public disclosure.

Section 9.4 Total Project Cost Audit

Within ninety (90) Days after the final Certificate of Occupancy is issued for the Project, the Entity shall submit to the Mayor, Township Manager and Township Council, an audit of Total Project Cost, certified as to actual construction costs by the Entity's architect.

Section 9.5 Disclosure Statement

On each anniversary date of the Effective Date of this Agreement, the Entity shall submit to the Mayor, Township Manager and Township Council, who shall advise those municipal officials required to be advised, a disclosure statement listing the persons having an ownership interest in the Project ("Interest Holders") and the extent of the ownership interest of each.

ARTICLE X
INDEMNIFICATION

Section 10.1 Indemnification

It is understood and agreed that in the event the Township shall be named as a party defendant in any action brought against the Township or the Entity by allegation of any breach, Default or a violation of any of the provisions of this Agreement and/or the provisions of the Exemption Law or any other Applicable Law, the Entity shall indemnify and hold the Township harmless from and against all liability, losses, damages, demands, costs, claims, actions or expenses (including reasonable attorneys' fees and expenses) of every kind, character and nature arising out of or resulting from the action or inaction of the Entity and/or by reason of any breach, Default or a violation of any of the provisions of this Agreement, the provisions of the Exemption Law and/or any other Applicable Law except for any willful misconduct by the Township or any of its officers, officials, employees or agents, and the Entity shall defend the suit at its own expense. The Township shall be entitled to intervene in any such suit, and retain attorneys of its choosing, whether as party defendant or intervenor, the cost of such attorneys to be borne by the Entity in accordance with this Section.

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.1 Governing Law

This Financial Agreement shall be governed by the provisions of Applicable Law including but not limited to the Exemption Law. This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Entity and the Township have combined in their review and approval of same.

Section 11.2 Oral Representation

Neither Party hereto has made any oral representation that is not contained in this Financial Agreement. This Financial Agreement and the Application, including all of the exhibits attached and annexed thereto, constitute the entire Financial Agreement by and between the Parties.

Section 11.3 Modification

There shall be no modification of this Financial Agreement except by virtue of a written instrument executed by and between both Parties.

Section 11.4 Notices

A notice, demand or other communication required to be given under this Agreement by any Party to the other shall be in writing and shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (with receipt acknowledged) to the Parties at their respective addresses set forth herein, or at such other address or addresses with respect to the Parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided in this Section:

a) When sent by the Entity to the Township:

Township of Livingston
357 S. Livingston Avenue
Livingston, New Jersey 07039
Attn: Township Manager

With copy to:

McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068
Attn: Joseph P. Baumann Jr., Esq.

b) When sent by the Township to the Entity:

45 Partners Urban Renewal, LLC
16 Microlab Road, Suite A
Livingston, New Jersey 07039
Attn: David Pantirer, Esq.

With copies to:

John Inglesino, Esq. & Derek W. Orth, Esq.
Inglesino Taylor, LLC
600 Parsippany Road, Suite 204
Parsippany, New Jersey 07054

From time to time either Party may designate a different person or address for all the purposes of this notice provision by giving the other party no less than ten (10) Days' notice in advance of such change of address in accordance with the provisions hereof. Notices shall be effective upon the earlier of receipt or rejection of delivery by the addressee. Any notice given by an attorney for a party shall be effective for all purposes. In addition, if the Entity delivers formal written notice to the Township in accordance with this Agreement, of the name and address of Entity's mortgagee, then the Township shall provide such mortgagee with a copy of any notice required to be sent to the Entity.

Section 11.5 Severability

If any term, covenant, or condition of this Financial Agreement shall be judicially declared to be invalid or unenforceable, the remainder of this Financial Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Financial Agreement shall be valid and be enforced to the fullest extent permitted by Applicable Law. If any portion of this Financial Agreement shall be judicially declared to be invalid and unenforceable and provided that a Default has not been declared pursuant to this Financial Agreement, the Parties shall cooperate with each other to take the actions reasonably required to restore the Financial Agreement in a manner contemplated by the Parties, including, but not limited to the authorization and amendment of this Financial Agreement in a form reasonably drafted to effectuate the original intent of the Parties.

Section 11.6 Good Faith

The Entity and the Township agree to act in good faith in all of their dealings with each other.

Section 11.7 Certification

The Township Clerk shall certify to the Tax Assessor, pursuant to *N.J.S.A.* 40A:20-12, that a Financial Agreement with an urban renewal entity, i.e., the Entity, for the development of the Project, has been entered into and is in effect as required by the Exemption Law. Delivery by the Township Clerk to the Tax Assessor of a certified copy of the Ordinance and this Financial Agreement shall constitute the required certification. Upon certification as required hereunder and upon the ASC Commencement Date, the Tax Assessor shall implement the exemption and continue to enforce that exemption without further certification by the Township Clerk until the expiration of the entitlement to exemption by the terms of this Financial Agreement or until the Tax Assessor has been duly notified by the Township Clerk that the exemption has been terminated. Further, within ten (10) Days following the later of the effective date of the Ordinance or the execution of the Financial Agreement by the Entity, the Township Clerk shall transmit a certified copy of the Ordinance and the Financial Agreement to the chief financial officer of Essex County and to the Essex County counsel for informational purposes pursuant to *N.J.S.A.* 40A:20-12.

Section 11.8 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 11.9 Estoppel Certificate

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

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK. SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, the Parties have caused this Financial Agreement to be executed the day and year first above written.

WITNESS:

Name: Lindsay Morte

45 PARTNERS URBAN RENEWAL, LLC

By: ______________________

Name: Jonathan Schwartz
Title: Authorized Signatory

STATE OF New Jersey)
) **SS.:**
COUNTY OF Essex)

Be it remembered that on the 22nd day of May, 2025, Jonathan Schwartz personally appeared before me, and this person acknowledged under oath, to my satisfaction that:

(a) s/he is the Authorized Signatory of 45 Partners Urban Renewal, LLC, the limited liability company named as Entity in the attached Financial Agreement;
(b) s/he is authorized to execute the attached Financial Agreement on behalf of the Entity;
(c) s/he executed the attached Financial Agreement on behalf of and as the act of the Entity; and
(d) the attached Financial Agreement was signed and made by the Entity as its duly authorized and voluntary act.

Sworn and subscribed to before me
this 22nd day of May, 2025

Lynn M. Wolfe
Notary Public of the State of NJ

LYNN M. WOLFE
NOTARY PUBLIC OF NEW JERSEY
Commission # 2188722
My Commission Expires 4/24/2026

ATTEST: **TOWNSHIP OF LIVINGSTON**

Lorri Paterno By: [signature]

Name: ~~Carolyn Mazzucco~~ Lorri Paterno Name: Barry R. Lewis, Jr.
Title: ~~Township Clerk~~ Executive Assistant Title: Township Manager

STATE OF NEW JERSEY)
) SS.:
COUNTY OF ESSEX)

Be it remembered that on the 28, day of August, 2025, Barry R. Lewis, Jr. personally appeared before me, and this person acknowledged under oath, to my satisfaction that:

(a) he is the Township Manager of the Township of Livingston, New Jersey, the Township in the attached Financial Agreement;
(b) he is authorized to execute the attached Financial Agreement on behalf of the Township;
(c) he executed the attached Financial Agreement on behalf of and as the act of the Township; and
(d) the attached Financial Agreement was signed and made by the Township as its duly authorized and voluntary act.

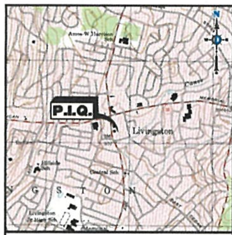
Sworn and subscribed to before me
this 28 day of August, 2025

[signature]
Notary Public of the State of NJ

TERESA PECCI
Notary Public, State of New Jersey
Comm. # 50221527
My Commission Expires 05/07/2029

EXHIBIT A
PROJECT SITE DESCRIPTION

To be attached.



KEY MAP
1" = 2000'

GENERAL NOTES

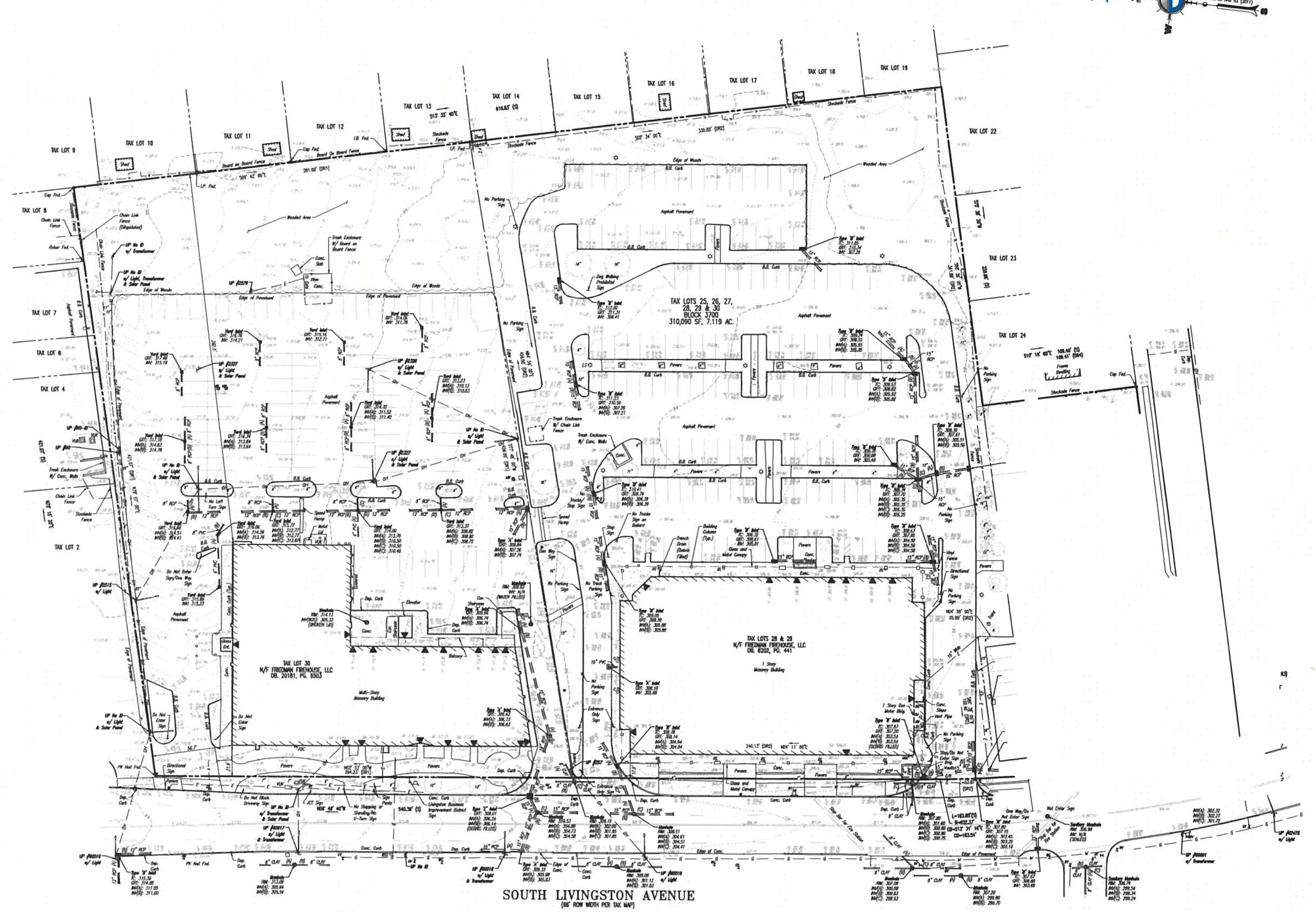
1. THE LOT AND BLOCK NUMBERS SHOWN ARE BASED ON THE TAX MAP OF THE TOWNSHIP OF LIVINGSTON, ESSEX COUNTY, NEW JERSEY, SHEET NO. 34.
2. HORIZONTAL DATUM – NAD 83 (2011), BASED ON GPS FIELD OBSERVATION PERFORMED BY DYNAMIC SURVEY ON APRIL 26, 2022, UTILIZING THE LEICA RTK CORS NETWORK.
3. VERTICAL DATUM – NAVD 88 (GEOID 12A), BASED ON GPS FIELD OBSERVATIONS PERFORMED BY DYNAMIC SURVEY ON APRIL 26, 2022, UTILIZING THE LEICA RTK CORS NETWORK.
4. FIELD WORK PERFORMED BY DYNAMIC SURVEY ON APRIL 26 THROUGH MAY 13, 2022.
5. A WRITTEN WAIVER AND DIRECTION NOT TO SET PROPERTY CORNERS HAS BEEN OBTAINED FROM THE ULTIMATE USER PURSUANT TO P.L. 2003, C.14 (C45:8-36.3) AND N.J.A.C. 13:40-5.1(D).
6. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONDITIONS THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS TRACT. PROPERTY IS SUBJECT TO SUB-SURFACE CONDITIONS AND/OR ENCROACHMENTS NOT DISCLOSED BY PUBLIC RECORD, IF ANY.
7. DYNAMIC SURVEY MAKES NO GUARANTEES THAT ALL UTILITIES ARE SHOWN AND ANY LOCATIONS SHOWN ARE APPROXIMATE BASED ON MARKOUT UNLESS NOTED OTHERWISE. ALL UTILITY LOCATIONS MUST BE VERIFIED WITH THE PROPER UTILITY COMPANIES PRIOR TO ADDITIONAL DESIGN, EXCAVATION OR CONSTRUCTION. CONTACT UTILITIES TOLL FREE 1-800-272-1000.
8. NOT ALL LOT LINES OUTSIDE THE BOUNDARY OF THE SUBJECT PROPERTY SHOWN HEREON HAVE BEEN FIELD SURVEYED AND ARE SHOWN AS A GRAPHICAL REPRESENTATION OF EXISTING LOT LINES BASED ON DEED, FILED MAPS AND TAX MAP INFORMATION.
9. BY GRAPHICAL PLOTTING THE PREMISES IS LOCATED IN ZONE "X" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) PER FLOOD INSURANCE RATE MAP NUMBER 34013C0067G, COMMUNITY NAME: TOWNSHIP OF LIVINGSTON, EFFECTIVE DATE: 04/03/2020.
10. NO WETLANDS DELINEATION MARKERS WERE OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK. THE EXISTENCE OR NONEXISTENCE OF WETLANDS OR OPEN WATERS THAT MAY BE REGULATED BY THE STATE OF NEW JERSEY AND/OR THE GOVERNMENT OF THE UNITED STATES IS NOT A PART OF THIS SURVEY.
11. NO ATTEMPT WAS MADE OR LIABILITY IS ASSUMED TO DETERMINE IF ANY PORTION OF THIS PROPERTY IS CLAIMED BY THE STATE OF NEW JERSEY AS TIDELANDS.
12. THE OFFSETS SHOWN ON THIS PLAN SHALL NOT BE USED AS THE BASIS FOR THE CONSTRUCTION OF FENCES OR ANY OTHER PERMANENT STRUCTURES.
13. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. OTHER DOCUMENTS OF RECORD MAY EXIST THAT WOULD AFFECT THIS PARCEL.
14. SUBJECT TO ROAD RIGHT-OF-WAY, ALL EASEMENTS, ORDINANCES, COVENANTS AGREEMENTS AND/OR RESTRICTIONS OF RECORD. PERTINENT DOCUMENTS OF RECORD REVIEWED AND CONSIDERED AS A PART OF THIS SURVEY ARE NOTED HEREON. OTHER DOCUMENTS OF RECORD MAY EXIST THAT WOULD AFFECT THIS PARCEL.
15. PER CONTRACTUAL AGREEMENT TREES OF SIZES 4" AND GREATER ARE SHOWN HEREON.
16. ONLY COPIES OF THE ORIGINAL SURVEY WITH AN ORIGINAL LAND SURVEYOR'S EMBOSSED SEAL SHALL BE CONSIDERED TO BE VALID COPIES. SIGNATURE AND EMBOSSED SEAL SIGNIFY THAT THIS CERTIFICATION WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE ADOPTED BY THE NJ STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS. CERTIFICATIONS INDICATED HEREON SHALL RUN ONLY TO THE PERSON FOR WHOM THE CERTIFICATION IS PREPARED, AND ON HIS BEHALF TO THE TITLE COMPANY, GOVERNMENTAL AGENCY AND LENDING INSTITUTION LISTED HEREON. CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. UNAUTHORIZED ALTERATION OR ADDITION TO A CERTIFICATION BEARING A LICENSED LAND SURVEYOR'S SEAL IS ILLEGAL AND PUNISHABLE BY LAW. PROPERTY SUBJECT TO DOCUMENTS OF RECORD.

MAP REFERENCES

1. A PLAN ENTITLED "MAP OF SHERBROOK", FILED IN THE ESSEX COUNTY CLERKS OFFICE ON 07/31/1929 AS MAP #1170.
2. A PLAN ENTITLED "TITLE AND TOPOGRAPHIC SURVEY, 45 SOUTH LIVINGSTON AVENUE, TAX LOTS 33 AND 33A, BLOCK 119, TOWNSHIP OF LIVINGSTON, ESSEX COUNTY, NJ", PREPARED BY CASEY AND KELLER INCORPORATED, DATED 02/20/2007.
3. A PLAN ENTITLED "LAND TITLE SURVEY, 19-43 SOUTH LIVINGSTON AVENUE, TAX LOT 30, BLOCK 3700 TOWNSHIP OF LIVINGSTON, ESSEX COUNTY, NJ", PREPARED BY CASEY AND KELLER INCORPORATED, DATED 04/27/2017.

DEED REFERENCES

1. DEED BOOK 20181, PAGE 9503 – LOT 30
2. DEED BOOK 6202, PAGE 441 – LOTS 28 AND 29
3. DEED BOOK 5129, PAGE 149 – LOT 27
4. DEED BOOK 5295, PAGE 600 – LOT 25



GRAPHIC SCALE
(IN FEET)
1 INCH = 30 FT.

DYNAMIC SURVEY, LLC
BOUNDARY & TOPOGRAPHIC SURVEY • FINAL SURVEY
HYDROGRAPHIC SURVEY • CONSTRUCTION STAKEOUT
ALTA/NSPS LAND TITLE • FOUNDATION LOCATION
1904 Main Street, Lake Como, NJ 0771
T: 732.974.0198 | F: 732.974.3521
Offices conveniently located at:
www.dynamicec.com

PROJECT:
ALLIED MANAGEMENT
BLOCK 3700, LOTS 25, 27, 28, 29 & 30
SOUTH LIVINGSTON AVENUE AND ARDEN ROA
TOWNSHIP OF LIVINGSTON, ESSEX COUNTY, NEW JERS

CRAIG BLACK
PROFESSIONAL ENGINEER & LAND SURVEYOR
NEW JERSEY LICENSE No. 24GE04257400

RODOLFO PIERRI
PROFESSIONAL LAND SURVEYOR
NEW JERSEY LICENSE No. 24GS03860600

TITLE:
BOUNDARY, LOCATION & TOPOGRAPHIC SURVEY

PROJECT No:	SCALE:	DATE:
1046-99-013S	1"=30'	05/16/22
DRAWN BY: RAU	FIELD BY: SJM/JRC/JRL/CFK	CHECKED BY: RP

SHEET No: 1 OF 1 — Rev. #: 0

EXHIBIT B
APPLICATION

Not recorded.

Copy on file with the Township Clerk of the Township of Livingston.

EXHIBIT C
FISCAL PLAN AND ESTIMATED ANNUAL GROSS REVENUES

To be attached.

EXHIBIT C
FISCAL PLAN AND ESTIMATED ANNUAL GROSS REVENUES

YEAR	ASC %	AGR	ASC	Less Land Taxes	Gross PILOT	Net PILOT	Admin. Fee	Land Taxes @ 80%	TOTAL REVENUE WITH PILOT
		Proj. Growth		@		(After 5% to Cty)	(2% of PILOT)	Twp. And BOE)	
		2.00%		15.13%					
1	11.5%	$ 10,610,449	$ 1,220,202	$ (67,243)	$ 1,152,959	$ 1,095,311	$ 24,404.03	$ 53,794	$ 1,173,509
2	11.5%	$ 10,822,658	$ 1,244,606	$ (68,588)	$ 1,176,018	$ 1,117,217	$ 24,892.11	$ 54,870	$ 1,196,979
3	11.5%	$ 11,039,111	$ 1,269,498	$ (69,959)	$ 1,199,538	$ 1,139,561	$ 25,389.96	$ 55,968	$ 1,220,919
4	11.5%	$ 11,259,893	$ 1,294,888	$ (71,359)	$ 1,223,529	$ 1,162,353	$ 25,897.75	$ 57,087	$ 1,245,337
5	11.5%	$ 11,485,091	$ 1,320,785	$ (72,786)	$ 1,248,000	$ 1,185,600	$ 26,415.71	$ 58,229	$ 1,270,244
6	13.0%	$ 11,714,793	$ 1,522,923	$ (74,241)	$ 1,448,682	$ 1,376,248	$ 30,458.46	$ 59,393	$ 1,466,099
7	13.0%	$ 11,949,089	$ 1,553,382	$ (75,726)	$ 1,477,655	$ 1,403,773	$ 31,067.63	$ 60,581	$ 1,495,421
8	13.0%	$ 12,188,071	$ 1,584,449	$ (77,241)	$ 1,507,208	$ 1,431,848	$ 31,688.98	$ 61,793	$ 1,525,330
9	13.0%	$ 12,431,832	$ 1,616,138	$ (78,786)	$ 1,537,353	$ 1,460,485	$ 32,322.76	$ 63,028	$ 1,555,836
10	13.0%	$ 12,680,469	$ 1,648,461	$ (80,361)	$ 1,568,100	$ 1,489,695	$ 32,969.22	$ 64,289	$ 1,586,953
11	14.5%	$ 12,934,078	$ 1,875,441	$ (81,969)	$ 1,793,473	$ 1,703,799	$ 37,508.83	$ 65,575	$ 1,806,883
12	14.5%	$ 13,192,760	$ 1,912,950	$ (83,608)	$ 1,829,342	$ 1,737,875	$ 38,259.00	$ 66,886	$ 1,843,020
13	14.5%	$ 13,456,615	$ 1,951,209	$ (85,280)	$ 1,865,929	$ 1,772,633	$ 39,024.18	$ 68,224	$ 1,879,881
14	14.5%	$ 13,725,747	$ 1,990,233	$ (86,986)	$ 1,903,248	$ 1,808,085	$ 39,804.67	$ 69,589	$ 1,917,478
15	14.5%	$ 14,000,262	$ 2,030,038	$ (88,725)	$ 1,941,313	$ 1,844,247	$ 40,600.76	$ 70,980	$ 1,955,828
16	14.5%	$ 14,280,267	$ 2,070,639	$ (90,500)	$ 1,980,139	$ 1,881,132	$ 41,412.78	$ 72,400	$ 1,994,945
17	14.5%	$ 14,565,873	$ 2,112,052	$ (92,310)	$ 2,019,742	$ 1,918,755	$ 42,241.03	$ 73,848	$ 2,034,844
18	14.5%	$ 14,857,190	$ 2,154,293	$ (94,156)	$ 2,060,136	$ 1,957,130	$ 43,085.85	$ 75,325	$ 2,075,540
19	14.5%	$ 15,154,334	$ 2,197,378	$ (96,039)	$ 2,101,339	$ 1,996,272	$ 43,947.57	$ 76,831	$ 2,117,051
20	14.5%	$ 15,457,421	$ 2,241,326	$ (97,960)	$ 2,143,366	$ 2,036,198	$ 44,826.52	$ 78,368	$ 2,159,392
21	15.5%	$ 15,766,569	$ 2,443,818	$ (99,919)	$ 2,343,899	$ 2,226,704	$ 48,876.36	$ 79,935	$ 2,355,516
22	15.5%	$ 16,081,900	$ 2,492,695	$ (101,918)	$ 2,390,777	$ 2,271,238	$ 49,853.89	$ 81,534	$ 2,402,626
23	15.5%	$ 16,403,538	$ 2,542,548	$ (103,956)	$ 2,438,593	$ 2,316,663	$ 50,850.97	$ 83,165	$ 2,450,679
24	15.5%	$ 16,731,609	$ 2,593,399	$ (106,035)	$ 2,487,364	$ 2,362,996	$ 51,867.99	$ 84,828	$ 2,499,692
25	15.5%	$ 17,066,241	$ 2,645,267	$ (108,156)	$ 2,537,112	$ 2,410,256	$ 52,905.35	$ 86,525	$ 2,549,686
26	15.5%	$ 17,407,566	$ 2,698,173	$ (110,319)	$ 2,587,854	$ 2,458,461	$ 53,963.46	$ 88,255	$ 2,600,680
27	15.5%	$ 17,755,718	$ 2,752,136	$ (112,525)	$ 2,639,611	$ 2,507,630	$ 55,042.72	$ 90,020	$ 2,652,693
28	15.5%	$ 18,110,832	$ 2,807,179	$ (114,776)	$ 2,692,403	$ 2,557,783	$ 56,143.58	$ 91,821	$ 2,705,747
29	15.5%	$ 18,473,049	$ 2,863,323	$ (117,071)	$ 2,746,251	$ 2,608,939	$ 57,266.45	$ 93,657	$ 2,759,862
30	15.5%	$ 18,842,510	$ 2,920,589	$ (119,413)	$ 2,801,176	$ 2,661,117	$ 58,411.78	$ 95,530	$ 2,815,059