

CITY COUNCIL**The City of Orange Township, New Jersey**

DATE _____

NUMBER 60-2018**TITLE:****ORDINANCE OF THE CITY OF ORANGE TOWNSHIP TO APPROVE A TAX EXEMPTION FOR A THIRTY (30) YEAR PERIOD AND TO AUTHORIZE THE THIRTY (30) YEAR EXEMPTION AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT BETWEEN THE CITY AND D&R ORANGE URBAN RENEWAL, LLC**

WHEREAS, the City of Orange Township, in the County of Essex, New Jersey (the "City") previously determined that approximately 924 parcels of real property located in the City, containing approximately 133 acres of land area (collectively, the "**Redevelopment Area**"), are an area in need of redevelopment under the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "**Redevelopment Law**"); and

WHEREAS, the City previously adopted the "Central Orange Redevelopment Plan" (originally adopted on November 17, 2003 as the "Hope VI Redevelopment Plan", and subsequently amended, with the latest such amendment and final adoption by the City Council occurring on September 5, 2017 by Ordinance No. 293-2017) (collectively, the "**Redevelopment Plan**") to govern the redevelopment of the properties located within the Redevelopment Area; and

WHEREAS, D&R Orange Urban Renewal, LLC, having its principal place of business at c/o Russo Development, 570 Commerce Boulevard, Carlstadt, New Jersey (the "**Entity**"), has proposed the construction, on the hereinafter described site (the "**Property**"), of a redevelopment project contemplated to consist of the construction of a multi-family residential apartment project (the "**Project**") containing approximately 208 market rate rental apartment units, resident amenities including club room, fitness rooms, and related facilities, a parking garage as hereinafter described (the "**Garage**"), approximately 15 surface parking spaces, and other related improvements; and

WHEREAS, the Property will include real property within the Redevelopment Area designated on the Official Assessment Tax Map of the City of Orange Township and County of Essex as Tax Block 2702, Lots 6 and 8 and Tax Block 2703, Lot 1, more commonly known by the street address of 374-76 and 377 Crane Street, Orange, New Jersey, and will also include Tax Block 2702, Lot 7 should that parcel be acquired by the Entity; and

WHEREAS, the City expects to authorize, by resolution, the execution and delivery of a Redevelopment Agreement with the Entity (the "**Redevelopment Agreement**"), in order to fully set forth the understanding of the City and the Entity with respect to the construction and development of the Project; and

WHEREAS, the Garage will consist of a two level garage containing approximately 141 spaces on the lower level and approximately 145 spaces on the upper level, of which the lower level spaces are to be used by the Entity and the upper level spaces are to be leased to the City on a long-term basis (not less than 30 years) by a written agreement to be negotiated, for use as public parking (with a portion of such upper level spaces to be made available with priority to tenants of the apartment project for lease on a subscription basis from the City) (the "**Two-Level Garage**"); provided, that if certain conditions set forth in the Redevelopment Agreement are not satisfied, the Garage will instead consist of a one level garage containing approximately 145 spaces, all of which are to be used by the Entity; and


CITY ATTORNEY

WHEREAS, the Project includes the construction of such reasonably necessary infrastructure improvements to the portion of Crane Street located along the frontage of the Project and Property that are caused or necessitated as a result of the construction of the Project, including but not limited to curb replacements, resurfacing (but not milling and repaving), sidewalks, street lighting, landscaping, “speed table” crosswalks and similar improvements consistent with the Entity’s approved site plan, to be determined in consultation with the City Planner (collectively, the “**Infrastructure Improvements**”); and

WHEREAS, the City expects to issue its general obligation bonds and/or notes in an aggregate principal amount not to exceed \$250,000 (collectively, the “**Bonds**”) pursuant to the Redevelopment Area Bond Financing Law, *N.J.S.A. 40A:12A-64* et seq. (the “**RAB Law**”), and/or the Local Bond Law, *N.J.S.A. 40A:2-1* et seq. (the “**Local Bond Law**”), as applicable, in order to defray certain eligible costs of the Infrastructure Improvements; and

WHEREAS, if the Project includes the Two-Level Garage, then as a condition to the construction of the Project, the Entity will be required to enter into a lease or other agreement with the City, providing for the City’s use of the upper level of the Garage as aforesaid and providing for the City’s payment to the Entity of certain lease payments in respect of such leasehold interest (the “**City Lease Payments**”), as described generally in the Redevelopment Agreement; and

WHEREAS, the City expects to authorize, by ordinance, the execution and delivery of a Garage Lease Agreement with the Entity (the “**Garage Lease Agreement**”) in order to fully set forth the understanding of the City and the Entity with respect to the City’s use of the upper level of the Garage as aforesaid and the payment of the City Lease Payments, in the event the Project includes the Two-Level Garage; and

WHEREAS, the Entity has obtained preliminary and final site plan approval for the Project from the City Planning Board on June 27, 2018, as memorialized in a resolution of the City Planning Board adopted on September 26, 2018; and

WHEREAS, the Project will conform to the Redevelopment Plan and all applicable municipal zoning ordinances, to the extent it contains provisions that are relevant to the Project, and will be in conformation with the master plan of the City; and

WHEREAS, the City is authorized under the provisions of the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1* et seq. (the “**LTTE Law**”) and the RAB Law to grant tax exemptions to qualifying entities constructing redevelopment projects within redevelopment areas and to enter into financial agreements with such entities governing payments made to the City in lieu of real estate taxes on the Project; and

WHEREAS, pursuant to *N.J.S.A. 40A:20-8*, the Entity filed an application (the “**Application**”) with the City for approval of a long term tax exemption for the Project and has agreed to enter into a financial agreement with the City (the “**Financial Agreement**”); and

WHEREAS, the Financial Agreement sets forth the terms and conditions under which the Entity and the City shall carry out their respective obligations with respect to the long term tax exemption for the Project; and

WHEREAS, the Mayor, together with counsel for the City, has reviewed the Application and found that it complies with the provisions of the LTTE Law and the RAB Law; and

WHEREAS, the Entity has demonstrated to the satisfaction of the Mayor and City Council that the granting of a long term tax exemption will improve the quality of life for the occupants of the Project and the quality of life for the City of Orange: and

WHEREAS, the Mayor and City Council finds that the relative benefits of the Project to the City outweigh the costs to the City associated with granting the long term tax exemption in that it will provide needed housing, retail and public parking, create both temporary and permanent jobs within the City, enhance the quality of life for residents in and around the Project and that it will be important in influencing the locational decisions of probable occupants of the Project; and

WHEREAS, the City Council has determined that the assistance provided to the Project pursuant to the Financial Agreement is necessary for the creation of the Project and will be a significant inducement for the Entity to proceed with the Project; and

WHEREAS, the Financial Agreement represents an arm's length transaction between the parties and all promises and agreements, express or implied, payment of fees or other benefits, terms or conditions related thereto are incorporated therein as it concerns the Project and the parties hereto as well as their agents and servants; and

WHEREAS, the Entity hereby certifies its compliance with the applicable municipal ordinances as well as the strictures of the LTTE Law and the RAB Law.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Orange Township as follows:

SECTION 1: PROVISIONS

1. The Entity's Application is hereby approved.
2. The Financial Agreement providing for a long term tax exemption on the Project is hereby approved with the intent that upon execution of the Financial Agreement and upon the terms set forth therein, the Project will exempt from taxation for a period of thirty (30) years.
3. The Mayor of the City is hereby authorized to execute the Financial Agreement substantially in the form as it has been presented to the City Council subject to modification or revision deemed necessary and appropriate in consultation with counsel.
4. The Clerk of the City is hereby authorized and directed, upon the execution of the Financial Agreement in accordance with the terms set forth herein, to attest to the signature of the Mayor upon such document, and is hereby further authorized and directed thereupon affix the corporate seal of the City upon such document.
5. The City Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the City and the Director of the Division of Local Government Services within the Department of Community Affairs in accordance with Section 12 of the LTTE Law.

SECTION 2: INCONSISTENCIES

All other ordinances and parts of ordinances in conflict or inconsistent with this ordinance are hereby repealed but only to the extent of such conflict or inconsistency.

SECTION 3: HEADINGS

All headings within this ordinance are for convenience only and are not deemed to be part of this ordinance.

SECTION 4: EFFECTIVE DATE

This ordinance shall take effect as required by law.

ADOPTED:

Joyce L. Lanier,
Municipal Clerk

Donna K. Williams,
Council President

APPROVED:

Dwayne D. Warren, Esq.,
Mayor

FINANCIAL AGREEMENT

FINANCIAL AGREEMENT
(N.J.S.A. 40A:20-1 et seq. and N.J.S.A. 40A:12A-64 et seq.)

This **FINANCIAL AGREEMENT** (hereinafter, this “**Financial Agreement**”) made this _____ day of _____, 2018 by and between D&R Orange Urban Renewal, LLC, a New Jersey Limited Liability Corporation qualified to do business under the provisions of the Long Term Tax Exemption Law, N.J.S.A. 40A: 20-1 et seq. (the “**LTTE Law**”), having its principal office at c/o Russo Development, 570 Commerce Boulevard, Carlstadt, New Jersey 07072 (hereinafter referred to as the “**Entity**”), and the City of Orange Township, a Municipal Corporation in the County of Essex and the State of New Jersey, having offices at City Hall, 29 North Day Street, Orange, New Jersey 07050 (hereinafter referred to as the “**City**”).

WITNESSETH:

WHEREAS, the governing body of the City (the “**City Council**”) has designated approximately 924 parcels of real property located in the City, containing approximately 133 acres of land area (collectively, the “**Redevelopment Area**”), to be an area in need of redevelopment under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “**Redevelopment Law**”), by resolution heretofore adopted by the City Council; and

WHEREAS, in connection with the designation of the Redevelopment Area, the City Council has adopted the “Central Orange Redevelopment Plan” (originally adopted on November 17, 2003 as the “Hope VI Redevelopment Plan”, and subsequently amended, with the latest such amendment and final adoption by the City Council

occurring on September 5, 2017 by Ordinance No. 293-2017 (collectively, and as may be further amended from time to time, in accordance with the Redevelopment Law, the “**Redevelopment Plan**”); and

WHEREAS, as described more fully within the application for long term tax exemption submitted by the Entity (a copy of which is attached hereto as Exhibit A) (the “**Application**”), the Entity has proposed the construction, on the hereinafter described site (the “**Property**”), of a redevelopment project contemplated to consist of the construction of a multi-family residential apartment project (the “**Project**”) containing approximately 208 market rate apartment units, resident amenities including club room, fitness rooms, and related facilities, a parking garage as hereinafter described (the “**Garage**”), approximately 15 surface parking spaces, and other related improvements; and

WHEREAS, the Property will include real property within the Redevelopment Area designated on the Official Assessment Tax Map of the City of Orange Township and County of Essex as Tax Block 2702, Lots 6 and 8 and Tax Block 2703, Lot 1, more commonly known by the street address of 374-76 and 377 Crane Street, Orange, New Jersey, and will also include Tax Block 2702, Lot 7 should that parcel be acquired by the Entity; and

WHEREAS, the City expects to authorize, by resolution, the execution and delivery of Redevelopment Agreement with the Entity (the “**Redevelopment Agreement**”), in order to fully set forth the understanding of the City and the Entity with respect to the construction and development of the Project; and

WHEREAS, the Garage will consist of a two level garage containing approximately 141 spaces on the lower level and approximately 145 spaces on the upper level, of which the lower level spaces are to be used by the Entity and the upper level spaces are to be leased to the City on a long-term basis (not less than 30 years) by a written agreement to be negotiated, for use as public parking (with a portion of such upper level spaces to be made available with priority to tenants of the apartment project for lease on a subscription basis from the City (the **“Two-Level Garage”**); provided, that if certain conditions set forth in the Redevelopment Agreement (the **“Garage Conditions”**) are not satisfied, the Garage will instead consist of a one level garage containing approximately 145 spaces, all of which are to be used by the Entity; and

WHEREAS, the Project includes the construction of such reasonably necessary infrastructure improvements to the portion of Crane Street located along the frontage of the Project and Property that are caused and necessitated as a result of the construction of the Project, including but not limited to curb replacements, resurfacing (but not milling and repaving), sidewalks, street lighting, landscaping, “speed table” crosswalks and similar improvements consistent with the Entity’s approved site plan, to be determined in consultation with the City Planner (collectively, the **“Infrastructure Improvements”**); and

WHEREAS, in order to defray certain eligible costs of the portion of the Project comprising the Infrastructure Improvements, the City expects to issue its general obligation bonds and/or notes in one or more series in an aggregate principal amount not to exceed \$250,000 (collectively, the **“Bonds”**) pursuant to the Redevelopment Area

Bond Financing Law, N.J.S.A. 40A:12A-64 et seq. (the “**RAB Law**”), and/or the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as applicable; and

WHEREAS, because the cost of the Project will be significantly higher if the Project includes the Two-Level Garage, the Entity has requested alternate schedules of annual service charges of between 2.25% and 7.00% of the annual gross revenue generated from the Project if the Project includes the Two-Level Garage, or between 6.25% and 10.00% of the annual gross revenue generated from the Project if the Project does not include the Two-Level Garage; and

WHEREAS, if the Project includes the Two-Level Garage, then as a condition to the construction of the Project, the Entity will be required to enter into a lease or other agreement with the City, providing for the City’s use of the upper level of the Garage as aforesaid and providing for the City’s payment to the Entity of certain lease payments in respect of such leasehold interest (the “**City Lease Payments**”), as described generally in the Redevelopment Agreement; and

WHEREAS, the City expects to authorize, by ordinance, the execution and delivery of a Garage Lease Agreement with the Entity (the “**Garage Lease Agreement**”) in order to fully set forth the understanding of the City and the Entity with respect to the City’s use of the upper level of the Garage as aforesaid and the payment of the City Lease Payments, in the event the Project includes the Two-Level Garage; and

WHEREAS, the Entity has obtained preliminary and final site plan approval for the Project from the City Planning Board on July 16, 2018, as memorialized in a resolution of the City Planning Board adopted on September 26, 2018; and

WHEREAS, the Project will conform to the Redevelopment Plan and all applicable municipal zoning ordinances, to the extent it contains provisions that are relevant to the Project, and will be in conformation with the master plan of the City; and

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

A. Relative Benefits of the Project when Compared to Costs:

(i) The granting of the long term tax exemption provided herein will permit the development of market rate residential units (and public parking, if the Project includes the Two-Level Garage) on the Property which would not be developed but for the granting of the exemption provided herein and will also create both temporary construction and permanent jobs which will benefit the community. Thus, the City Council finds that this substantial public benefit outweighs the difference between the unabated tax amount and the amount that the Entity will be required to pay hereunder.

(ii) If the Project includes the Two-Level Garage, the net parking revenue to be derived by the City from its operation of the upper level of the Garage is projected to offset the lower annual service charge percentages as compared to the single level Garage scenario.

B. Assessment of the Importance of the Tax Exemption in Developing the Project and Influencing the Locational Decisions of Potential Occupants:

(i) This long term tax exemption represents a logical and economical method of attracting residents who will utilize retail/commercial operations which are vital to the City and the community because but for the provision of this financial incentive and the

subsidy provided thereby, the development of residential rental housing units would not be possible and thus would not occur; and

(ii) The relative stability and predictability of the Annual Service Charges will enhance the Entity's ability and opportunity to successfully construct, operate and maintain this Project, which in turn will ensure the likelihood of success over the life of the Project; and

(iii) The long term tax exemption granted under this Financial Agreement is important to the City because without the incentive of the tax exemption granted under this Financial Agreement, it is unlikely that the Project would be undertaken and as such the goals and objectives of the Redevelopment Plan would go unfulfilled. The tax exemption is also expected to influence the locational decisions of potential occupants of the Project, and will be of benefit to the local businesses in the community and will foster the growth of additional off-site local business opportunities; and

WHEREAS, the parties hereto wish to set forth in detail their mutual rights and obligations with respect to the tax exemption applicable to this Project by entering into this Financial Agreement; and

WHEREAS, the RAB Law (specifically N.J.S.A. 40A:12A-66(a)) authorizes a municipality to dispense with the provisions requiring a minimum or maximum amount of service charge and requiring staged increase in the annual service charges where a redevelopment project (such as the Project) is being financed with bonds under the RAB Law (such as the Bonds); and

WHEREAS, the City does hereby grant its approval for the Project as a redevelopment project to be developed and to be maintained upon the terms and conditions hereinafter set forth herein.

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 Financial Agreement shall be governed by the provisions of the LTTE Law and the RAB Law. It is expressly understood and agreed that the City expressly relies upon the facts, data, and presentations contained in the Application attached hereto in granting this tax exemption.

Section 1.2 General Definitions

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

- i. Allowable Net Profit – The amount arrived at by applying the allowable profit rate to the total project cost pursuant to the provisions of N.J.S.A. 40A: 20-3(c).
- ii. Allowable Profit Rate – The Allowable Profit Rate means the greater of 12% or the percentage per annum arrived at by adding 1 ¼% per annum to the annual interest percentage rate payable on the Entity’s initial permanent mortgage financing. The provisions of N.J.S.A. 40A:20-3(b) are incorporated herein by reference.
- iii. Annual Service Charge – The amount that the Entity has agreed to pay the City in lieu of full taxation on the Improvements (but not the Land, which will remain

subject to taxation) as set forth more fully within Section 4.1 of this Financial Agreement, and which shall be prorated in the year in which the Substantial Completion of the Project occurs and the year in which this Financial Agreement terminates.

iv. Application – The application filed by the Entity pursuant to N.J.S.A. 40A:20-8 for a long term tax exemption for the Project which is attached hereto as Exhibit A.

v. Auditor's Report – A complete financial statement outlining the financial status of the Project (for a period of time as indicated by context) the contents of which shall include a certification of Total Project Cost (in the first Auditor's Report following Substantial Completion only, with any changes to be contained in a subsequent Annual Report) and proper and accurate computations of annual Gross Revenue and Net Profit. The contents of the Auditor's Report shall be prepared in conformity with generally accepted accounting principles and shall contain such information as necessary to compute the foregoing items, and any other items required by Law, Statutes or Ordinance. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

vi. Bankruptcy Event – Shall be deemed to occur upon either:

(A) the filing by the Entity of a voluntary petition in bankruptcy or any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief for the Entity under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the consent by the Entity to the filing of any such

petition or to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) for the Entity or for all or substantially all of its property, or the making by the Entity of any assignment for the benefit of creditors, or the admission by the Entity in writing its inability to pay its debts generally as they become due; or

(B) the filing of a petition against the Entity in a court having jurisdiction over the premises seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or local law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or similar official) for the Entity or of all or substantially all of its property, or the entry of an order for the winding up or liquidation of its affairs, unless such petition shall be dismissed or such appointment or order vacated within ninety (90) days of the filing, appointment or order.

vii. Certificate of Occupancy – Permanent or temporary certificate of occupancy as such terms are defined in the New Jersey Administrative Code, issued by the City authorizing occupancy of a building, in whole or in part, pursuant to N.J.S.A. 52:27D-133.

viii. City – The City of Orange Township, New Jersey.

ix. City Lease Payments – Shall have the meaning ascribed thereto in the Recitals hereto.

x. Default – Shall be the failure of the Entity to perform any obligation imposed upon the Entity by the terms of this Financial Agreement, beyond the expiration of all notice, grace and cure periods as provided hereunder or pursuant to applicable law.

xi. Entity – Shall mean D&R Orange Urban Renewal, LLC, a New Jersey Limited Liability Corporation qualified to do business under the provisions of the Law, and any lawful assignees as authorized under this Financial Agreement.

xii. Garage – Shall have the meaning ascribed thereto in the Recitals hereto.

xiii. Garage Exclusion Event – Any willful action taken by the Entity, in violation of the terms and provisions of the Garage Lease (beyond the expiration of all notice, grace or cure periods contained therein or available by applicable law), or by any of its lenders or lienholders, having the effect of excluding the City from occupancy and use of the upper level of the Garage (including ingress and egress over the Land and the other portions of the Garage) for a period of sixty (60) consecutive days during the term of the Garage Lease Agreement, unless such exclusion is permitted by the terms of the Garage Lease Agreement or is the result of a casualty or condemnation event beyond the reasonable control of the Entity.

xiv. Garage Lease Agreement – Shall have the meaning ascribed thereto in the Recitals hereto.

xv. Gross Revenue or Annual Gross Revenue – The annual gross revenue of the Project calculated as set forth in N.J.S.A. 40A:20-3(a). The parties acknowledge that Gross Revenue (A) shall include income or fees paid or received from parking (whether paid by tenants or by third parties), without reduction for expenses, (B) shall include insurance, operating and maintenance expenses paid by a tenant which are ordinarily paid by a landlord, as represented by the Entity in its calculation of Gross Revenue, (C) shall include all other revenue from the Project, including but not limited to revenue from the laundry room, vending machines, and the like, without reduction for expenses, (D) shall

exclude extraordinary items, condemnation awards, insurance proceeds (other than business interruption insurance), gains from sales, transfers or assumption of the Project or any part thereof, proceeds of any financing or refinancing, and proceeds from any disposition of a partner or a partner's interest in the Entity or any successor entity, and (E) shall be computed without deduction for operating or maintenance costs, including, but not limited to, gas, electric, water and sewer, other utilities, garbage removal and insurance charges, whether paid for by the Entity, tenant or third party.

xvi. Improvements – Any building, structure or fixture permanently affixed to the Land as part of the Project and incorporated therein, which improvements are recognized as exempted from taxation under this Financial Agreement.

xvii. Infrastructure Improvements – Shall have the meaning ascribed thereto in the Recitals hereto.

xviii. In Rem Tax Foreclosure – A summary proceeding by which the City may enforce the lien for taxes due and owing by a tax sale. Said foreclosure is governed by N.J.S.A. 54: 5 -1 et seq.

xix. Land – The land, but not the Improvements, located at Block 2703, Lots 6 and 8, and Block 2703, Lot 1, as described more particularly by the metes and bounds description set forth within the Application. The Land shall include that parcel located at Block 2703, Lot 7, if such parcel is acquired by the Entity.

xx. Land Taxes – The amount of taxes assessed on the value of the Land upon which the Project is located. Land assessments are not abated and shall remain a lien on the Land.

xxi. Land Tax Payments – Payments made on the quarterly due dates for Land Taxes on the Land as determined by the Tax Assessor and the Tax Collector.

xxii. Law – The term Law shall refer, collectively, to the LTTE Law and the RAB Law.

xxiv. Minimum Annual Service Charge – The minimum annual service charge shall be the amount of the total taxes levied against the Property in the last full tax year in which the area was subject to taxation.

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

xxvi. Project – The Land and Improvements thereon which are the subject of this Financial Agreement and as defined in N.J.S.A. 40A:20-3 (e) & (i). The Project entails the construction of a multi-family residential apartment project containing approximately 208 market rate rental apartment units and other related improvements, including the Garage, to be located on the Land, and also including the Infrastructure Improvements, as described more fully within the Application and in the Recitals hereto.

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

xxviii. Property – The Land and the Improvements thereon located at Block 2702, Lots 6 and 8, and Block 2703, Lot 1 as described on the Official Tax Map of the City of Orange Township, and more commonly known as 374-76 and 377 Crane Street, Orange, New Jersey.

xxix. Statutes – The term Statutes when used in this Financial Agreement shall refer to all relevant statutes of the State of New Jersey.

xxx. Substantial Completion – The determination by the City that the Project is ready for the use intended and issuance of Certificates of Occupancy for the Project, as further defined in Section 6.2 of this Financial Agreement.

xxxi. Termination – The expiration of the term of this Financial Agreement in accordance with Section 3.1 hereof or the termination of this Financial Agreement in accordance with Section 3.3 or Section 14.1 hereof, in either case resulting, by operation of the terms of this Financial Agreement, in the termination of the tax abatement provided hereunder in respect of the Improvements.

Section 1.3 Exhibits Incorporated

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

Article II - Approval

Section 2.1 Approval of Tax Abatement

The City has granted and does hereby grant its approval for a tax abatement for the Improvements (but not the Land) to be constructed in accordance with this Financial Agreement and the Application, such tax abatement to be effective on the date provided in Section 6.2 hereof and extending throughout the Term described in Section 3.1 hereof, unless this Financial Agreement is sooner terminated pursuant to Section 14.1 hereof.

The City agrees that it shall not impose any added assessment, omitted added assessment or similar assessment on the value of the Improvements prior to the Annual Service Charge start date.

The Entity represents and covenants that, effective as of the completion of the Project, it shall use the Project for the purposes set forth in the Application, and the land use applications filed with, and as approved by, the City in connection with this Project.

Section 2.2 Approval of Entity

Approval hereunder is granted to the Entity for the contemplated Project on the Property, which shall in all respects comply and conform to all applicable statutes of the State of New Jersey, and the lawful regulations made pursuant thereto, governing land, building(s) and the use thereof, and which Project is more particularly described in the Application.

Section 2.3 First Source Employment

The Entity shall make commercially reasonable efforts to consider residents of the City for employment in the portions of the Project construction consisting of the demolition of existing structures and construction of the Infrastructure Improvements (collectively, the “**Covered Portions of the Project**”). The Entity’s obligation under this Section 2.3 shall be deemed satisfied by the inclusion of language to effectuate this provision in all prime contracts entered into by the Entity for the Covered Portions of the Project; provided, that the Entity shall diligently enforce such contract provisions against each such prime contractor.

Section 2.4 Affirmative Action

The Entity, for itself and its successors and assigns, agrees that during the construction of the Covered Portions of the Project:

(a) It will comply with the provisions of the Affirmative Action Language contained herein.

(b) When hiring workers in each construction trade, or when engaging contractors, the Entity agrees, pursuant to the City's request, to use commercially reasonable efforts to consider for employment:

- (i) minority workers in each construction trade; or
- (ii) minority contractors consistent with the goal of contracting with Qualified Minority Business Enterprises for twenty percent (20%) of the dollar value of the hard costs of total procurements to be awarded in connection with the Covered Portions of the Project.

For purposes of this section, the term "Minority" shall mean persons who are Black, Hispanic, Portuguese, Latino, Asian American, American Indian or Alaskan Natives. The term "Qualified Minority Business Enterprise" shall mean a business which has its principal place of business in New Jersey, is independently owned and operated, is at least 51% owned and controlled by Minority group members and is qualified.

The Entity's obligation under this Section 2.4(b) shall be deemed satisfied by the inclusion of language to effectuate this provision in all prime contracts entered into by the Entity for the Covered Portions of the Project; provided, that the Entity shall diligently enforce such contract provisions against each such prime contractor.

(c) It will undertake a program of local preference to facilitate entering into contracts with and/or purchasing goods and services from qualified (by financial capability, experience, knowledge, training and professional reputation, to the extent reasonably related to the nature of the goods and services to be provided) local merchants and businesses located within the City.

(d) It will endeavor to comply with the above stated goals by, among other things, considering employment of qualified (and to the extent reasonably related to the nature of the goods and services to be provided, licensed, bonded or insured, and skilled) applicants, contractors and vendors who are from a pool of contractors and vendors registered by the City or its designee.

(e) Where applicable, it will at all times conform to all applicable laws with respect to affirmative action and equal employment opportunities requirements, and particularly those which are imposed as a condition to receipt of any government-sponsored funding for the Project, notwithstanding any other provision of this Financial Agreement to the contrary.

Section 2.5 Compliance and Reporting

The Entity covenants to enforce (and cause any other person or entity to enforce) its contracts with its prime contractors if such parties are not in compliance with Sections 2.3 and 2.4.

Failure to comply with the requirements of Sections 2.3, 2.4 or 2.5 shall constitute a Default within the meaning of Section 13.1, as to which the provisions of Sections 13.2, 13.3 (but not Section 14.1) shall be applicable. In addition to any other remedy provided under this Financial Agreement and any other remedy provided by law, the parties agree that the provisions of Sections 2.3 and 2.4 may be enforced by the City through specific enforcement.

Article III – Duration of Financial Agreement

Section 3.1 Term

So long as there is compliance with the Law and this Financial Agreement, and except as provided in Sections 3.3 and 14.1 hereof, it is understood and agreed by the parties hereto that this Financial Agreement shall remain in effect for a term of thirty (30) years from the date of Substantial Completion of the Project (which shall be the start date of the tax abatement and the Annual Service Charge payments under this Financial Agreement) and shall continue in force only while said Project is owned by an urban renewal entity formed pursuant to the Law; provided, however, that in no case shall this Financial Agreement remain in effect longer than 35 years from the date of execution of this Financial Agreement. Upon expiration of the term of this tax exemption, (i) the tax exemption for the Project shall no longer be in effect and the Land and the Improvements on the Property thereon shall thereafter be assessed and taxed according to the general law applicable to other non-exempt property in the City and (ii) all restrictions and limitations upon the Entity outlined in this Financial Agreement shall terminate upon the Entity's rendering and the City's acceptance of the Entity's final accounting.

Section 3.2 Termination by Entity Not Permitted

Pursuant to N.J.S.A. 40A:12A-66, the provisions of N.J.S.A. 40A:20-13 permitting the relinquishment of tax-exemption status under the LTTE Law after the expiration of one (1) year from the project completion date, shall not apply to redevelopment projects (such as the Project) financed with bonds under the RAB Law (such as the Bonds). Accordingly, the Entity shall have no authority to voluntarily terminate this Financial Agreement.

Section 3.3 Certain Termination Events

If the Project includes the Two-Level Garage, then this Financial Agreement shall be subject to termination, at the direction of the City, upon the occurrence of any Bankruptcy Event or any uncured Garage Exclusion Event.

Article IV - Annual Service Charge

Section 4.1 Annual Service Charge

(a) The Annual Gross Revenue shall be calculated as set forth within N.J.S.A. 40A:20-3(a) and the definition thereof contained in Section 1.2 hereof.

(b) All parking spaces on the Property (other than those spaces which will be made available to the City or its designee pursuant to the Garage Lease Agreement, if applicable) will be exclusively for the use of the owners, tenants or occupants of the Property. If the Entity charges for the parking spaces on the Property, the Entity must report this as other revenue generated from the Project. All such parking revenues shall be included, without reduction for expenses, in Annual Gross Revenue for purposes of computing the Annual Service Charges under paragraph (c) below. In the event that the Entity seeks to lease the parking spaces on the Property (other than those spaces which will be made available to the City or its designee pursuant to the Garage Lease Agreement, if applicable), to third parties other than the owners, tenants or occupants of the Property, the Entity must first notify the City in writing and must comply with all City ordinances and State laws regarding parking.

(c) Pursuant to N.J.S.A. 40A:12A-66, the provisions of N.J.S.A. 40A:20-12 establishing a minimum or annual service charge and requiring staged increases in the annual service charge over the term of the exemption period shall not apply to

redevelopment projects financed with bonds under the RAB Law (such as the Bonds). The Infrastructure Improvements (which constitute a portion of the Project) will be financed by the Bonds.

(d) In the event the Garage Conditions are satisfied or waived by the Entity, such that the Project includes the Two-Level Garage, the Annual Service Charge payable by the Entity to the City for each year of the Financial Agreement shown below shall be the amount equivalent to the respective percentage of the Annual Gross Revenue generated from the Project shown below for each such year:

Year	Percentage		Year	Percentage
1	2.25		16	3.45
2	2.25		17	3.60
3	2.25		18	3.75
4	2.25		19	3.90
5	2.25		20	4.10
6	2.25		21	4.30
7	2.25		22	4.55
8	2.25		23	4.80
9	2.40		24	5.04
10	2.55		25	5.30
11	2.70		26	5.60
12	2.85		27	5.90
13	3.00		28	6.20
14	3.15		29	6.50
15	3.30		30	7.00

(e) Alternatively, in the event the Garage Conditions are not satisfied or waived by the Entity, such that the Project does not include the Two-Level Garage, the Annual Service Charge payable by the Entity to the City shall be as follows:

- (i) During year one (1) through year five (5) of the Financial Agreement, the Annual Service Charge shall be an amount equal to 6.25% of the Annual Gross Revenue generated from the Project;
- (ii) During year six (6) through year ten (10) of the Financial Agreement, the Annual Service Charge shall be an amount equal to 6.75% of the Annual Gross Revenue generated from the Project;
- (iii) During year eleven (11) through year fifteen (15) of the Financial Agreement, the Annual Service Charge shall be an amount equal to 7.25% of the Annual Gross Revenue generated from the Project;
- (iv) During year sixteen (16) through year twenty (20) of the Financial Agreement, the Annual Service Charge shall be an amount equal to 8.00% of the Annual Gross Revenue generated from the Project;
- (v) During year twenty-one (21) through year twenty-five (25) of the Financial Agreement, the Annual Service Charge shall be an amount equal to 9.00% of the Annual Gross Revenue generated from the Project; and
- (vi) During year twenty-six (26) through year thirty (30) of the Financial Agreement, the Annual Service Charge shall be an amount equal to 10.00% of the Annual Gross Revenue generated from the Project.

(f) In no event shall the Annual Service Charge, excluding taxes on the Land, in any year after the Annual Service Charge Start Date be less than the Minimum Annual Service Charge. The parties agree that the Minimum Annual Service Charge for the Project (exclusive of Tax Block 2702, Lot 7) shall be \$95,647. The Minimum Annual Service Charge shall not be reduced through any tax appeal on Land and/or Improvements during the period the Agreement is in force and effect; provided, however, that the foregoing shall not prohibit the Entity from appealing land taxes applicable to the Land as may be then assessed at any time during the term of this Financial Agreement.

Section 4.2 Quarterly Installments

The Entity expressly agrees that the aforesaid Annual Service Charge(s) shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each City fiscal year. In the event that the Entity fails to so pay, the amount unpaid shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid. The first year of the Annual Service Charge shall be billed based on the Entity's estimated Annual Gross Revenues for the first full year of operation as estimated in the Application (i.e., \$4,554,879), which amount shall be adjusted when the Auditor's Report is completed for such first year. In the event of any such adjustment, (i) any surplus owing to the Entity as a result of an overpayment revealed by such calculation shall be credited against the next quarterly installment of Annual Service Charges payable by the Entity after the date such Auditor's Report is filed, and (ii) any deficiency owing to the City as a result of an underpayment revealed by such calculation

shall be paid by the Entity to the City within thirty (30) days of the date such Auditor's Report is filed.

Section 4.3 Land Tax Credit

The Entity is obligated to make Land Tax Payments, notwithstanding any entitlement to a Land Tax Credit against the Annual Service Charge for the subsequent year. The Entity shall be entitled to a credit for the amount, without interest, of the Land Tax Payments paid by it in the last four preceding quarterly installments against the Annual Service Charge. The Entity's failure to make the requisite Annual Service Charge payment in a timely manner shall constitute a violation and breach of the Financial Agreement and the City shall, if such failure shall continue for greater than thirty (30) days following the date such quarterly Annual Service Charge installment is due, (i) render the Entity ineligible for any Land Tax credit in respect of such quarterly Annual Service Charge installment (which shall automatically result in an increase in the amount due on such quarterly Annual Service Charge installment), (ii) enable the City, among its other remedies, to proceed against the Property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1 et seq., and/or (iii) enable the City to cancel the Financial Agreement in a manner consistent with the provisions of Section 14.1 hereof. Any default arising out of the Entity's failure to pay Land Taxes and/or Annual Service Charges, shall not be subject to the default procedural remedies as provided in Section 5.1 of this Financial Agreement.

Section 4.4 Material Conditions

It is expressly agreed and understood that all Land Tax Payments, Annual Service Charges, including the methodology of computation, water and sewer charges, and any

interest payments due, are material conditions of this Financial Agreement. If any other term, covenant or condition of this Financial Agreement or the Application, to any person or circumstance shall, to any extent, 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 Financial Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 4.5 City Administrative Charge

In addition to the Annual Service Charge, there will be a fee of 2% of the Annual Service Charge added to cover City administration costs.

Article V - Dispute Resolution

Section 5.1 Remedies

In the event of a breach of this Financial Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, other than those items specifically included as material conditions herein, either party may apply to the Superior Court of New Jersey by an appropriate proceeding, to settle and resolve said dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its expedited commercial rules and regulations in such a fashion to accomplish the purpose of said Law. Costs for said arbitration shall be borne equally by the parties. In the event of a default on the part of the Entity, to pay the Annual Service Charge as defined in Article IV, above, the City among its other

remedies, reserves the right to proceed against the Entity's land and premises, in the manner provided by N.J.S.A. 54:5-1 to 54:5-129, and any act supplementary or amendatory thereof. Whenever the word "Taxes" appear, 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 Financial Agreement, as if the Annual Service Charge were taxes or municipal liens on land. In such event, however, the Entity, whichever the case may be, does not waive any defense it may have to contest the right of the City to proceed in the above mentioned manner by conventional or In Rem Tax foreclosure.

Article VI – Certificate of Occupancy

Section 6.1 Certificate of Occupancy

It is understood and agreed that following commencement of construction of the Improvements, it shall be the obligation of the Entity to make application for and make all commercially reasonable efforts to obtain all Certificates of Occupancy in a timely manner upon determination by the City that the Project is ready for the use intended, as identified in the Application. Failure on the part of the Entity, following such determination, to use all commercially reasonable efforts to secure and submit said Certificates of Occupancy in a timely manner, shall constitute a default hereunder, which shall be subject to the provisions of Articles XIII and XIV hereof.

Section 6.2 Substantial Completion

The Annual Service Charge is to commence from the first day of the month following the Substantial Completion, as herein defined, of the Project or any phase(s) thereof if the Project is undertaken in phases.

Section 6.3 Filing of Certificate of Occupancy

It shall be the primary responsibility of the Entity to forthwith file with the Tax Assessor, the Tax Collector and the Chief Financial Officer of the City a copy of such certificate upon its issuance by the City.

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 City's Tax Assessor in the absence of such filing by the Entity.

Article VII - Annual Audits

Section 7.1 Accounting System

The Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles and as otherwise prescribed in the Law during the term of the tax exemption.

Section 7.2 Periodic Reports

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 its Auditor's Report certified by a certified public accountant for the preceding fiscal or calendar year to the City, to the attention of the City's Chief Financial Officer, and the City Clerk, who shall advise those municipal officials required to be advised, and to the Director of the Division of Local Government Services in the Department of Community Affairs N.J.S.A. 40A:20-9(d). Said Auditor's Report shall include, but not be limited to the following:

Rental schedule of the Project, and the terms and interest rate on any mortgage(s) associated with the Project and such details as may relate to the financial affairs of the

Entity and to its operation and performance hereunder, pursuant to the Law and this Financial Agreement.

After full completion of the Project (as opposed to Substantial Completion), the Entity agrees to submit a Total Project Cost audit certified by a Certified Public Accountant within ninety (90) days after full completion of the Project.

Section 7.3 Inspection

The Entity shall, upon written request by the City, permit the inspection of property, equipment, buildings and other facilities of the Project. It also shall permit, upon request, examination and audit of its books, contracts, records, documents and papers by representatives duly authorized by the City. Such inspection, examination or audit shall be made during the reasonable hours of the business day, in the presence of any officer or agent of the Entity.

Section 7.4 Limitation of Profits and Reserves

During the period of tax exemption as provided herein, the Entity shall be subject to limitation of its profits payable by it pursuant to the provisions of N.J.S.A. 40A:20-15.

The Entity shall have the right to establish a reserve against unpaid rentals, reasonable contingencies and/or vacancies in an amount not exceeding ten (10%) percent of the Annual Gross Revenue of the Entity for the last full fiscal year preceding the year in which a determination is being made with respect to permitted Net Profits and may retain 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, said reserve to be noncumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have

attained the allowable level of ten (10%) percent of the preceding year's Annual Gross Revenue as aforesaid.

Section 7.5 Payment of Dividend and Excess Profit Charge

In the event the Net Profits of the Entity, as provided in N.J.S.A. 40A:20-15, shall exceed the Allowable Net Profits for such period, then the Entity shall, within one hundred twenty (120) days after the end of such fiscal year, pay such excess profit to the City as an additional service charge; provided, however, that the Entity may maintain a reserve as determined pursuant to aforementioned Section 7.4.

Article VIII - Assignment and/or Assumption

Section 8.1 Approval

As permitted by N.J.S.A. 40A:20-10, it is understood and agreed that the City, on written application by the Entity, and upon payment of an application fee equal to two percent (2%) of the Annual Service Charge, will consent to the sale of the Project (but not a portion thereof) and the transfer of this Financial Agreement to another urban renewal entity, provided that (a) if such sale and transfer is to occur prior to Substantial Completion, the transferee urban renewal entity shall have demonstrated to the reasonable satisfaction of the City that it possesses the experience and capitalization necessary to complete and operate the Project, which determination by the City shall not be unreasonably withheld, conditioned or delayed; (b) the transferee urban renewal entity does not own any other project subject to long term tax exemption at the time of transfer; (c) the transferee urban renewal entity is formed and eligible to operate under the Law; (d) the Entity is not then in Default of this Financial Agreement or in violation of the Law; (e) the Entity's obligations under this Financial Agreement and the Garage Lease

Agreement are fully assumed by the transferee urban renewal entity; and (f) the transferee urban renewal entity abides by all terms and conditions of this Financial Agreement and the Garage Lease Agreement.

Section 8.2 Operation of Project

The Project shall be operated in accordance with the provisions of the Law, as currently amended and/or supplemented. Operation of the Project under this Financial Agreement shall not only be terminable as provided by the Law, but also by a material breach of this Financial Agreement in accordance with the express provisions hereof.

Section 8.3 Termination

The Entity hereby agrees at all times prior to the expiration or termination of this Financial Agreement to remain bound by the provisions of the Law. It is an express condition of the granting of this tax exemption that during its duration, the Entity shall not, without the prior consent of the Municipal Council, convey or transfer, all or part of the Project so as to sever, disconnect, or divide the Improvements from the Land which are basic to, embraced in, or underlying the exempted Improvements.

Article IX – Notice

Section 9.1 Notice

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

- (a) When sent by the City to the Entity it shall be addressed as follows:

D&R Orange Urban Renewal, LLC
570 Commerce Boulevard
Carlstadt, New Jersey 07072
Attn: Edward Russo

With a copy to:

Christopher H. Minks, Esq.
Senior Vice President – General Counsel
D&R Orange Urban Renewal, LLC
570 Commerce Boulevard
Carlstadt, New Jersey 07072

(b) When sent by the Entity to the City, it shall be addressed as follows:

City Hall
29 North Day Street
Orange, New Jersey 07050
Attention: Municipal Clerk

The notice to the City shall identify the subject as “Crane Street Redevelopment Project” and shall include any assigned tax account numbers.

Article X – Compliance

Section 10.1 Statutes and Ordinances

The Entity hereby agrees at all times prior to the expiration or termination of this Financial Agreement to remain bound by the provisions of Federal and State Statutes and Municipal Ordinances and Regulations including, but not limited to, the Law. The Entity’s failure to comply with such statutes or Ordinances shall constitute a violation and breach of the Financial Agreement and the City shall, among its other remedies, have the right to terminate said tax exemption in accordance with the provisions of Articles XIII and XIV hereof.

Article XI - Construction

Section 11.1 Construction

This Financial Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Financial Agreement

to be drawn since counsel for both the Entity and the City have combined in their review and approval of same.

Article XII – Indemnification

Section 12.1 Defined

It is understood and agreed that in the event the City shall be named as party defendant in any action brought against the Entity by reason of any breach, default or a violation of any of the provisions of this Financial Agreement and/or the provisions of the Law, the Entity shall indemnify and hold the City harmless, except for and excluding any matters however arising related to the misconduct or willful, wrongful acts of the City or any of its officers, officials, employees, representatives or agents, 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 consents, the expense thereof to be borne by the Entity.

Article XIII - Default

Section 13.1 Default

Default shall be failure of the Entity to comply with the terms of this Financial Agreement and failure of the Entity to perform any obligation imposed upon the Entity by statute, ordinance or lawful regulation, subject to the expiration of all applicable notice, grace and cure periods provided in this Financial Agreement.

Section 13.2 Cure Upon Default

Should the Entity be in default as defined and set forth in this Financial Agreement, the City shall notify the Entity in writing of said default. Said notice shall set forth with particularity the basis of said default. The Entity shall have sixty (60) days

from its receipt of such notice to cure any alleged default (other than a default in the payment of any installment of the Annual Service Charge, which shall instead be subject to the provisions of Section 4.3 hereof), provided that if the default cannot reasonably be cured within the applicable cure period using reasonable diligence, then the time to cure shall be extended upon written request for an additional ninety (90) day period of time.. The City may not cancel the Financial Agreement unless sixty (60) days' notice to cure has also been given to all lenders of record.

Section 13.3 Remedies Upon Default

Subsequent to the passage of requisite number of days after the Entity's receipt of a default notice (as set forth in Sections 4.3 or 14.2 hereof) without cure, the City shall have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54: 4-1, et seq., if the default is the failure to pay the Annual Service Charge, and/or may cancel the Financial Agreement. All of the remedies provided in this agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No determination of any provision within this Financial Agreement shall deprive the City of any of its remedies or actions against the Entity because of its failure to pay land taxes, the Annual Service Charge, and/or the water and sewer charges and interest payments. This right shall apply to arrearages that are due and owing at the time, and the bringing of any action for land taxes and Annual Service Charges, or other charges, or for breach of covenant or the resort of any other remedy herein provided for the recovery of land taxes, Annual Service Charges, and water and sewer charges, or other charges shall not be construed as a waiver of the right to

terminate said tax exemption and/or proceed with In Rem Foreclosure action or any other remedy.

Article XIV - Termination

Section 14.1 Termination Upon Default of the Entity

In the event the Entity fails to cure or remedy such default or material breach within the time period provided in Section 13.2, or in the event the City terminates the Redevelopment Agreement pursuant to Section 5.2(1) thereof, the City may cancel this Financial Agreement upon ninety (90) days notice to the Entity and all lenders of record, which may be nullified upon a cure of the subject default by or on behalf of the Entity. For purposes of rendering a final financial accounting the termination of the agreement shall be deemed to be the end of the fiscal year for the Entity. The Entity shall within one hundred twenty (120) days after the date of such termination pay to the City a sum equal to the amount of the reserves, if any, maintained pursuant to N.J.S.A. 40A:20-13 and 15. Upon such termination of the Project, all affected parcels and all improvements made thereto shall be assessed and subject to taxation as are all other taxable properties within the City.

Section 14.2 Final Accounting

Upon any termination of such exemption, whether by affirmative action of the Entity or by virtue of the provisions of the Law, or pursuant to the terms of this Financial Agreement, the date of such termination shall be deemed to be the end of the fiscal year of the Entity solely for the purpose of providing a final accounting pursuant to this Financial Agreement.

It is further provided that at the end of the period of tax exemption granted hereunder, the Land and Improvements shall be assessed and taxed according to general law like other property in the City. At the same date, all restrictions and limitations upon the Entity shall terminate upon the Entity rendering its final accounting with the City, and the City's acceptance thereof, pursuant to N.J.S.A. 40A:20-13.

Article XV - Miscellaneous

Section 15.1 Conflict

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

Section 15.2 Oral Representations

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

Section 15.3 Entire Document

All conditions in the Ordinance of the Municipal Council approving this Financial Agreement, and the Application, with all attachments and exhibits, are incorporated in this Financial Agreement and made a part hereof.

Section 15.4 Good Faith

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

Section 15.5 Grammatical Agreement

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 15.6 Recording

Either this entire Financial Agreement or a memorandum of recording will be filed and recorded with Essex County Register of Deeds by the Entity.

Article XVI – Exhibits

Exhibit A – D&R Orange Urban Renewal, LLC Tax Abatement Application

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

ATTEST:

**D&R ORANGE URBAN
RENEWAL, LLC**

By: D&R Management, LLC, its
Managing Member

Witness

By: _____
Edward Russo, Manager

ATTEST:

**THE CITY OF ORANGE
TOWNSHIP**

Clerk

Dwayne D. Warren, Esq., Mayor

APPROVED AS TO FORM

City Attorney

EXHIBIT A

**APPLICATION
LONG TERM TAX ABATEMENT**