

Second Reading:

**ORDINANCE OF THE CITY OF LINDEN, COUNTY OF UNION, NEW JERSEY APPROVING THE APPLICATION FOR A LONG TERM TAX EXEMPTION AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH GOETHALS COMMERCE PARK URBAN RENEWAL, LLC**

**WHEREAS**, Sterling Equities, LLC, an affiliate of Goethals Commerce Park Urban Renewal LLC (the “**Entity**”) is the redeveloper of the property known as Block 513, Lots 4.01 and 4.02 (the “**Project Area**”) on the tax maps of the City of Linden (the “**City**”), which is located in an area designated as an area in need of redevelopment, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

**WHEREAS**, the City and the Entity entered into a redevelopment agreement pursuant to which, among other things, the Entity will construct an approximately 526,120 square foot warehouse and distribution facility (the “**Project**”); and

**WHEREAS**, the Entity submitted to the Mayor of the City (the “**Mayor**”) an application (the “**Application**”), which is on file with the City Clerk, to make payments to the City in lieu of taxes in connection with the Project, pursuant to the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. (the “**Tax Exemption Law**”); and

**WHEREAS**, the Entity also submitted to the Mayor a form of financial agreement (the “**Financial Agreement**”), a copy of which is attached hereto as **Exhibit A**, establishing the rights, responsibilities and obligations of the Entity; and

**WHEREAS**, the Mayor submitted the Application and Financial Agreement to the City Council with his recommendation for approval, a copy of which recommendation is on file with the City Clerk; and

**WHEREAS**, the City Council has determined that the Project represents an undertaking permitted by the Tax Exemption Law.

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Linden, County of Union, New Jersey that:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Application and Financial Agreement are hereby approved.
3. The Mayor is hereby authorized to execute the Financial Agreement substantially in the form attached hereto as **Exhibit A**, subject to minor modification or revision, as deemed necessary and appropriate after consultation with counsel.
4. The Clerk of the City is hereby authorized and directed, upon execution of the Financial Agreement by the Mayor, to attest to the signature of the Mayor and to affix the corporate seal of the City upon such document.
5. If any section, paragraph, subdivision, clause, sentence, phrase or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.
6. A copy of this Ordinance shall be available for public inspection at the offices of the City Clerk.
7. This ordinance shall take effect in accordance with applicable law.

PASSED:

\_\_\_\_\_  
President of Council

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

I, JOSEPH C. BODEK, City Clerk of the City of Linden, in the County of Union and State of New Jersey, DO HEREBY CERTIFY that the foregoing is a true copy of the ordinance adopted by the City Council of the City of Linden at a meeting held on \_\_\_\_\_, 2020 as the same is taken from and compared with the original now remaining on file and of record in my office.

IN WITNESS WHEREOF, I have set my hand and affixed the corporate seal of the City of Linden, this \_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
JOSEPH C. BODEK, City Clerk

**Exhibit A**  
**Form of Financial Agreement**

Ord. #64-47

**Financial Agreement**

**By and Between**

**The City of Linden**

**and**

**GOETHALS COMMERCE PARK URBAN RENEWAL LLC**

**Dated as of: \_\_\_\_\_, 2020**

**THIS FINANCIAL AGREEMENT** (hereinafter “**Agreement**” or “**Financial Agreement**”), made this \_\_\_ day of \_\_\_\_\_, 2020, by and between GOETHALS COMMERCE PARK URBAN RENEWAL LLC, a New Jersey limited liability company qualified to do business under the provisions of the Long Term Tax Exemption Law of 1992, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. (the “**Exemption Law**”), with offices at 111 Great Neck Road, Great Neck, New York 11021, along with its permitted successors and/or assigns (the “**Urban Renewal Entity**” or “**Redeveloper**”), and the CITY OF LINDEN, a municipal corporation in the County of Union and the State of New Jersey (the “**City**”; together with the Urban Renewal Entity, the “**Parties,**” with each a “**Party**”).

**WITNESSETH:**

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

**WHEREAS**, pursuant to the resolution adopted on August 20, 2019, the municipal council of the City (the “**City Council**”) authorized the Planning Board of the City (the “**Planning Board**”) to investigate whether those properties commonly known as Block 513, Lots 4.01 and 4.02 on the tax map of the City (the “**Property**”) should be designated as an area in need of redevelopment pursuant to the Redevelopment Law; and

**WHEREAS**, on January 14, 2020, the Planning Board held a hearing and recommended to the City Council that the Property be designated as an area in need of redevelopment pursuant to the Redevelopment Law; and

**WHEREA**, on January 21, 2020, the City Council adopted Resolution 2020-48 designating the Property as an area in need of redevelopment (the “**Redevelopment Area**”); and

**WHEREAS**, Ricci Planning prepared a redevelopment plan entitled “Redevelopment Plan – Block 513, Lots 4.01 and 4.02 (Brunswick Ave. Site),” dated February 7, 2020 (the “**Redevelopment Plan**”), providing the development standards for the Property; and

**WHEREAS**, on February 11, 2020, pursuant to *N.J.S.A. 40A:12A-7f*, the Planning Board held a hearing to review and discuss the Redevelopment Plan, and made recommendations concerning same; and

**WHEREAS**, on March 17, 2020, the City Council adopted Ordinance 64-17, which adopted the Redevelopment Plan for the Redevelopment Area; and

**WHEREAS**, the Redeveloper submitted to the City a proposal to undertake the construction of [three (3) warehouses totaling approximately 526,120 square feet (the “**Project**”); and

**WHEREAS**, on \_\_\_\_\_, the City adopted Resolution \_\_\_\_\_, designating the Redeveloper as “redeveloper” (as such term is defined in the Redevelopment Law) of the Property and authorizing the execution of a redevelopment agreement; and

**WHEREAS**, the City and the Redeveloper executed a redevelopment agreement on \_\_\_\_\_, 2020 (the “**Redevelopment Agreement**”), that set forth the terms and conditions upon which the Property is to be redeveloped; and

**WHEREAS**, in order to enhance the economic viability of and opportunity for a successful project, the City now enters into this Financial Agreement with the Urban Renewal Entity, which Agreement shall govern payments made to the City in lieu of real estate taxes on the Project pursuant to the Exemption Law; and

**WHEREAS**, the Urban Renewal Entity has filed an application (the “**Application**,” as further defined herein), with the Mayor of the City for approval of a long term tax exemption (the “**Tax Exemption**”) for the Improvements (as defined herein) to the extent permitted by the Exemption Law; and

**WHEREAS**, the City has made the following findings with respect to the Project:

- A. Relative benefits of the Project:
  - i. The Project will provide industrial space in the City, along with the renewal and revitalization of the Redevelopment Area.
  - ii. The City will benefit from the creation of approximately 200-250 construction jobs and 100-250 permanent jobs.
  - iii. Without the Tax Exemption granted herein, it is highly unlikely that the Urban Renewal Entity would have proceeded with the Project.
- B. Assessment of the importance of the Tax Exemption in obtaining development of the Project and influencing the locational decisions of probable occupants:

The Tax Exemption allows for competitive rents for potential tenants. In a highly competitive market for logistical and warehouse distribution space, the price per square foot of construction and land taxes can be the deciding factor for market absorption. In order to attract and retain quality tenants, developers need the ability to be competitive and local tax exemption play a critical role in the locational decisions of developers.

**WHEREAS**, upon consideration of the Application and the Mayor's recommendations with respect thereto pursuant to N.J.S.A. 40A:20-8, the City Council, on \_\_\_\_\_, 2020, adopted Ordinance No. \_\_\_\_\_ (the “**Ordinance**”) authorizing the execution of this Agreement and granting the Tax Exemption in accordance with the terms hereof; and

**WHEREAS**, in order to satisfy requirements of the Exemption Law and to set forth the terms and conditions under which the Parties shall carry out their respective obligations with respect to the Annual Service Charge (as such term is defined herein), the Parties have determined to execute this Financial Agreement.

**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 1.01 Governing Law** – THIS FINANCIAL AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THIS STATE, INCLUDING THE PROVISIONS OF THE EXEMPTION LAW, THE REDEVELOPMENT LAW AND ALL OTHER APPLICABLE LAWS. IT IS HEREBY EXPRESSLY ACKNOWLEDGED, UNDERSTOOD AND AGREED THAT EACH AND EVERY PARCEL OF LAND, AND ANY IMPROVEMENT RELATED THERETO, INCLUDING WITHOUT LIMITATION, ANY UNIT, AS SUCH TERMS ARE DEFINED HEREIN, SHALL BE SUBJECT TO AND GOVERNED BY THE TERMS OF THIS FINANCIAL AGREEMENT.

**Section 1.02 General Definitions**. The following terms shall have the meaning assigned to such term in the preambles hereof:

<b>Agreement</b>	<b>Project</b>
<b>Application</b>	<b>Property</b>
<b>City</b>	<b>Redeveloper</b>
<b>City Council</b>	<b>Redevelopment Agreement</b>
<b>Exemption Law</b>	<b>Redevelopment Area</b>
<b>Financial Agreement</b>	<b>Redevelopment Law</b>
<b>Ordinance</b>	<b>Redevelopment Plan</b>
<b>Parties/Party</b>	<b>Urban Renewal Entity</b>

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

**Administrative Fee**: As defined in Section 4.10.

**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(b) and (c).

**Allowable Profit Rate**: The greater of twelve percent (12%) per annum 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. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge shall be considered as interest for this purpose. If there is no permanent mortgage financing, or if the financing is internal or undertaken by a related party, the Allowable Profit Rate shall be the greater of twelve percent (12%) per annum or the percentage per annum arrived at by adding one and one quarter percent (1.25%) per annum to the interest rate per annum that the City reasonably determines to be the prevailing rate of mortgage financing on comparable improvements in the county. The provisions of N.J.S.A. 40A:20-3(b) are incorporated herein by reference.

**Annual Gross Revenue**: The Annual Gross Revenue shall be calculated as set forth within N.J.S.A. 40A:20-3(a). Annual gross ordinary income received by the Entity which is derived from



or generated by the Project, specifically excluding, without limitation, extraordinary items, condemnation awards, insurance proceeds, gains from sales, transfers, or assumption of the Project or any part thereof, proceeds of any financing or refinancing, proceeds from any disposition of any interest in the Entity or any successor entity. Annual gross revenue shall not include any tenant reimbursement of the Annual Service Charge or land taxes to the Entity.

Annual Service Charge/ASC: The amount the Entity has agreed to pay the City pursuant to Article IV herein with respect to the Improvements (but not the Property upon which the Improvements are located), which: (a) Entity has agreed to pay in part for municipal services supplied to the Project, (b) is in lieu of any taxes on the Improvements pursuant to N.J.S.A. 40A:20-12, (c) shall be paid on the Annual Service Charge Payment Dates, and (d) shall be prorated in the year in which this Agreement begins and the year in which this Agreement terminates.

Annual Service Charge Payment Dates: February 1, May 1, August 1 and November 1 of each year, commencing after the Certificate of Completion is issued for the Facility and ending on the Termination Date.

Annual Service Charge Start Date: The first day of the month following the Completion Date.

Applicable Law: All federal, State and local laws, ordinances, approvals, rules, regulations and requirements applicable to the Project including, but not limited to, the Redevelopment Law, the Long Term Tax Exemption Law, relevant construction codes including construction codes governing access for people with disabilities, and such zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations thereunder, including all applicable environmental laws, applicable federal and State labor standards and all applicable laws or regulations with respect to the payment of prevailing wages

Auditor's Report: As defined in Section 6.02.

Certificate of Completion: A certificate or certificates, issued by the City in accordance with the provisions of the Redevelopment Agreement, certifying that the Entity has performed its duties and obligations under the Redevelopment Agreement and the Redevelopment Plan with respect to the Project in its entirety.

Chief Financial Officer: The City's Chief Financial Officer.

Completion Date: shall mean the date that the Improvements are substantially complete for their intended purpose as evidenced by the issuance of a Certificate of Completion.

Default: A breach or the failure to perform any obligation imposed by the terms of this Agreement, or under Applicable Law.

Effective Date: The date of this Agreement.

Improvements: All improvements associated with the construction and operation of the Project, including all ancillary improvements required for the Project.

In Rem Tax Foreclosure: A summary proceeding by which the City may enforce the lien for taxes due and owing by a tax sale in accordance with the Tax Sale Law.

Land: the land comprising the Property (Block 513, Lots 4.01 and 4.02), excluding any improvements on the Property.

Land Taxes: The amount of taxes assessed on the value of the Land upon which the Project is located.

Land Tax Payments: Payments made on the quarterly due dates for Land Taxes as determined by the Tax Assessor and the Tax Collector in accordance with Applicable Law.

Minimum Annual Service Charge: The amount of taxes levied against the Land upon which the Project is located in the last full tax year in which the Land was subject to taxation.

Net Profit: The Annual Gross Revenue of the Entity less all operating and non-operating expenses of the Entity, all determined in accordance with generally accepted accounting principles and the provisions of N.J.S.A. 40A:20-3(c). Without limiting the foregoing, included in expenses shall be an amount sufficient to amortize the Total Project Cost in accordance with generally accepted accounting principles as well as all other expenses permitted under the provisions of N.J.S.A. 40A:20-3(c). As provided in N.J.S.A. 40A:20-3(a), any gain realized by the Entity on the sale of any unit in fee simple, whether or not taxable under federal or state law, shall not be included in computing Gross Revenue.

Notice: As defined in Section 15.01.

Schedule of Staged Adjustments: As defined in Section 4.01.

Secured Party/Secured Parties: As defined in Section 8.02(a)

Security Arrangements: As defined in Section 8.02(a).

State: The State of New Jersey.

Tax Assessor: The City Tax Assessor.

Tax Collector: The City Tax Collector.

Tax Sale Law: The Tax Sale Law, N.J.S.A. 54:5-1 et seq., as the same may be amended or supplemented from time to time.

Termination Date: The earlier to occur of (i) the thirty-fifth (35<sup>th</sup>) anniversary of the Effective Date; (ii) the thirtieth (30<sup>th</sup>) anniversary date of the Annual Service Charge Start Date;

or (iii) such other date as this Financial Agreement may terminate pursuant to the terms hereof or pursuant to Applicable Law.

Total Project Cost: The cost of developing the Project as determined in accordance with N.J.S.A. 40A:20-3(h), including those costs set forth on **Exhibit E** attached hereto, as certified by a qualified architect or engineer and as permitted pursuant to N.J.S.A. 40A:20-3(h) for the Project.

Year 1: The twelve-month period of time which shall commence on the first day of the month following the issuance of a Certificate of Completion for the Project.

**Section 1.03 Interpretation and Construction.** In this Financial Agreement, unless the context otherwise requires:

(a) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Financial Agreement, refer to this Financial Agreement, and the term “hereafter” means after, and the term “heretofore” means before the date of delivery of this Financial 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 Financial 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 Financial Agreement, nor shall they affect its meaning, construction or effect.

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

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

(g) This Financial Agreement shall become effective upon its execution and delivery by the Parties.

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

## ARTICLE II

## APPROVAL

**Section 2.01 Approval of Tax Exemption.** The City hereby grants its approval for a tax exemption for the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of Applicable Law, which Improvements shall be constructed on the Land.

**Section 2.02 Approval of Entity.** The Entity represents that its Certificate of Formation and Certificate of Authority as provided in the Application contain all the requisite provisions of law, have been reviewed and approved by the Commissioner of the Department of Community Affairs, and have been filed with, as appropriate, the Secretary of Treasury, all in accordance with N.J.S.A. 40A:20-5.

**Section 2.03 Improvements to be Constructed.** The Entity represents that it will construct, or cause to be constructed, the Project substantially in accordance with the Redevelopment Agreement, the Redevelopment Plan and Applicable Law, the use of which is more specifically described in the Application.

**Section 2.04 Ownership, Management and Control.** The Entity represents that it is the owner of the Property upon which the Improvements are to be constructed and which is the subject of this Agreement.

**Section 2.05 Financial Plan.** The Entity represents that the Improvements shall be financed substantially in accordance with the financial plans provided in the Application. The financial plans set forth the Entity's good faith estimate of estimated Total Project Cost, amortization rate on Total Project Cost, the source of funds, the interest rates to be paid on construction financing, the source and amount of paid-in capital, and the terms of any mortgage amortization for the Project.

**Section 2.06 Statement of Projected Revenues.** The Entity represents that its good faith estimate of projected Annual Gross Revenue is set forth in **Exhibit H** attached hereto.

**Section 2.07 Representations and Covenants Regarding Use, Management and Operations of the Project by the Entity.** The Entity expressly covenants, warrants and represents that upon completion, the Project, including all Land and Improvements, shall be used, managed and operated for the purposes set forth in the Application, substantially in accordance with the Redevelopment Agreement, Redevelopment Plan and all Applicable Laws.

## **ARTICLE III** **DURATION OF AGREEMENT**

**Section 3.01 Term.** It is understood and agreed by the Parties that this Agreement, including the obligation to pay the Annual Service Charge required under Article IV hereof and the tax exemption granted and referred to in Section 2.01 hereof, shall remain in effect until the Termination Date. The tax exemption shall only be effective while the Project is owned by a corporation, association or other entity formed and operating under the Long Term Tax Exemption

Law. Upon the Termination Date, the tax exemption for the Project shall expire and the Improvements shall thereafter be assessed and taxed according to the general law applicable to other taxable property in the City.

**Section 3.02 Voluntary Termination by Entity.** At any time after one (1) year after the Annual Service Charge Start Date for each Phase of the Project if applicable, the Entity may, on not less than thirty (30) days written notice to the City, voluntarily terminate this Agreement in accordance with N.J.S.A. 40A:20-13. As of the date provided in such notice, this Agreement shall terminate and the tax exemption, Annual Service Charge, and limitation on profits and dividends shall terminate.

**Section 3.03 Date of Termination.** The Termination Date shall be deemed to be the fiscal year end of the Entity.

#### **ARTICLE IV** **ANNUAL SERVICE CHARGE**

**Section 4.01 Payment of Conventional Taxes Prior to Commencement of Annual Service Charge.** During the period between execution of this Agreement and the Substantial Completion of the Project, the Urban Renewal Entity shall make payment of conventional real estate taxes with respect to the Land and any improvements currently existing thereon, at the time and to the extent due in accordance with generally applicable law.

**Section 4.02 Commencement of Annual Service Charge.** The Urban Renewal Entity shall make payment of an annual service charge (the “**Annual Service Charge**”) commencing on the Annual Service Charge Start Date.

**Section 4.03 Payment of Annual Service Charge.**

(a) The Annual Service Charge shall be due and payable to the City on the Annual Service Charge Payment Dates, commencing to accrue as of the Annual Service Charge Start Date. In the event that the Urban Renewal Entity fails to timely pay any installment of the Annual Service Charge, the amount past due shall, until paid, bear the highest rate of interest permitted under applicable State law then being assessed against other delinquent taxpayers in the case of unpaid taxes or tax liens.

(b) Each installment payment of the Annual Service Charge is to be made to the City and shall be clearly identified as “Annual Service Charge Payment for the Goethals Commerce Park Urban Renewal LLC Project.”

**Section 4.04 Annual Service Charge.** In consideration of the exemption from taxation for the Improvements, the Urban Renewal Entity shall pay the Annual Service Charge to the City on the Annual Service Charge Payment Dates in the amounts set forth below.

(a) The Annual Service Charge shall be equal to an amount calculated as follows:

- (i) For each of the first ten (10) years from the Annual Service Charge Start Date, the Annual Service Charge shall be equal to the greater of (A) fifteen percent (15%) of the Annual Gross Revenue, or (B) the Minimum Annual Service Charge, to the extent applicable;
- (ii) For each of the years eleven (11) through fifteen (15) from the Annual Service Charge Start Date, the Annual Service Charge shall be equal to the greater of (A) seventeen percent (17%) of the Annual Gross Revenue, or (B) the Minimum Annual Service Charge, to the extent applicable; and
- (iii) For each of the years 16 through 20 from the Annual Service Charge Start Date, the Annual Service Charge shall be equal to the greater of (A) seventeen percent (17%) of the Annual Gross Revenue, (B) twenty percent (20%) of the real property taxes otherwise due on the value of the Land and the Improvements, or (C) the Minimum Annual Service Charge; and
- (iv) For year 21 from the Annual Service Charge Start Date, the Annual Service Charge shall be equal to the greater of (A) nineteen percent (19%) of the Annual Gross Revenue, (B) twenty percent (20%) of the real property taxes otherwise due on the value of the Land and the Improvements, or (C) the Minimum Annual Service Charge; and
- (v) For each of the years 22 through 27 from the Annual Service Charge shall be equal to the greater of (A) nineteen percent (19%) of the Annual Gross Revenue, (B) forty percent (40%) of the real property taxes otherwise due on the value of the Land and the Improvements, or (C) the Minimum Annual Service Charge; and
- (vi) For each of the years 28 through 29 from the Annual Service Charge shall be equal to the greater of (A) nineteen percent (19%) of the Annual Gross Revenue, (B) sixty percent (60%) of the real property taxes otherwise due on the value of the Land and the Improvements, or (C) the Minimum Annual Service Charge; and
- (vii) For year 30 from the Annual Service Charge Start Date, the Annual Service Charge shall be equal to the greater of (A) nineteen percent (19%) of the Annual Gross Revenue, (B) eighty percent (80%) of the real property taxes otherwise due on the value of the Land and the Improvements, or (C) the Minimum Annual Service Charge.

(b) In accordance with the Exemption Law, including without limitation, *N.J.S.A. 40A:20-12*, the Urban Renewal Entity shall be entitled to a credit against the Annual Service Charge equal to the amount, without interest, of the Land Taxes paid by it in the last four preceding quarterly installments.

**Section 4.05 Material Conditions.** It is expressly agreed and understood that all payments of Land Taxes, Annual Service Charges and any interest payments, penalties or costs of collection due thereon, are material conditions of this Financial Agreement. If any other term, covenant or condition of this Financial Agreement or the Application, as to any person or circumstance shall, to any extent, be determined by a court of competent jurisdiction 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 remaining term, covenant or condition of

this Financial Agreement shall be valid and enforced to the fullest extent permitted by Applicable Law.

**Section 4.06** No Reduction in Payment of the Minimum Annual Service Charge. In the event the assessed value of the property is increased by reason of a municipal revaluation, reassessment or otherwise, Entity shall have the right to file a tax appeal against the assessed value of the Property. Notwithstanding the foregoing, the amount of the Annual Service Charge, as provided in Section 4.04 hereof shall not be reduced below the Minimum Annual Service Charge.

**Section 4.07** Service Charges as Municipal Lien. In accordance with the provisions of the Long Term Tax Exemption Law, any amount due and owing hereunder, including the Annual Service Charge shall be and constitute a continuous municipal lien on the Project.

**Section 4.08** Security for Payment of Annual Service Charges. In order to secure the full and timely payment of the Annual Service Charges, the City reserves the right to prosecute an In Rem Tax Foreclosure action against the Property, as more fully set forth in this Agreement.

**Section 4.09** Land Taxes. Land Taxes shall be assessed only on the land portion of the Property without regard to any Improvements or increase in value to the land because of the Improvements. The City agrees it shall not impose an added assessment, omitted added assessment or similar assessment on the value of the Improvements prior to the Annual Service Charge Start Date.

The Entity is required to pay both the Annual Service Charge and the Land Tax Payments. The Entity shall be entitled to a credit for the amount, without interest, of the Land Taxes paid on the Property in the last four preceding quarterly installments against the Annual Service Charge.

The Entity is obligated to make timely Land Tax Payments in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. No credit will be applied against the Annual Service Charge for partial payments of Land Taxes. In any year that the Entity fails to make any Land Tax Payments, beyond any notice and cure period, such delinquency shall render the Entity ineligible for any Land Tax credits against the Annual Service Charge for that year and such failure shall constitute a Default under this Agreement. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the Property pursuant to the Tax Sale Law and/or may terminate this Agreement in a manner consistent with the Default provisions set forth in Article XIII hereof.

**Section 4.10** Administrative Fee. In addition to the Annual Service Charge, the Entity shall pay to the City an annual fee of two percent (2%) of the projected Annual Service Charge upon the Annual Service Charge Start Date and each anniversary thereafter prior to the Termination Date (the “Administrative Fee”).

In the event the Entity fails to pay the Administrative Fee when due and owing, the amount paid shall bear the highest rate of interest permitted under applicable State law in the case of unpaid taxes or tax liens in the City until paid.

**ARTICLE V**  
**CERTIFICATE OF OCCUPANCY**

**Section 5.01** Certificate of Occupancy. It is understood and agreed that it shall be the obligation of the Urban Renewal Entity to obtain all Certificates of Occupancy in a timely manner after the Urban Renewal Entity has satisfied all requirements to secure such Certificate of Occupancy.

**Section 5.02** Filing of Certificate of Occupancy. It shall be the responsibility of the Urban Renewal Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy. Notwithstanding the foregoing, the filing of any Certificate of Occupancy shall not be a prerequisite for any action taken by the City, including, if appropriate, retroactive billing with interest to collect any charges hereunder to be due.

**ARTICLE VI**  
**ACCOUNTING, REPORTS AND CALCULATIONS**

**Section 6.01** Accounting System. The Entity agrees to calculate its “Net Profit” pursuant to N.J.S.A. 40A:20-3(c). As stated in *N.J.S.A.* 40A:20-3(c), this calculation shall be made in accordance with generally accepted accounting principles or as otherwise prescribed in the Long Term Tax Exemption Law during the term of this Agreement.

**Section 6.02** Periodic Reports.

(a) In accordance with the Long Term Tax Exemption Law, specifically N.J.S.A. 40A:20-9(d), the Entity shall submit, on an annual basis and within ninety (90) days after the close of the Entity’s fiscal year, its Auditor’s Report certified by an independent certified public accountant for the preceding fiscal year to the Mayor, the City Council 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 New Jersey Department of Community Affairs. The provision of a consolidated schedule for the Entity, authorized by a person holding the title of Vice President and Controller, or equivalent position, attached to an audited Form 10-K produced for its parent entity or other alternative audited statement relating to the Entity generated by or on behalf of its parent shall constitute compliance with this Section.

(b) Disclosure Statement: Within thirty (30) days after each anniversary date of the execution of this Agreement, the Entity shall submit to the City Council, a disclosure statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each.

**Section 6.03** Inspection. The Entity shall, upon request, permit the inspection of its property, equipment, buildings and other facilities of the Project (subject to the rights of tenants) and also permit, upon request, examination and audit of its books, contracts, records, documents and papers by representatives duly authorized by the City, and State 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) business days' written notice during the Entity's 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.

**ARTICLE VII**  
**LIMITATION ON PROFITS AND RESERVES**

**Section 7.01** Limitation on Profits and Reserves. During the period of tax exemption as provided herein, the Entity shall be subject to a limitation of its profits pursuant to the provisions of N.J.S.A. 40A:20-15. Pursuant to N.J.S.A. 40A:20-3(c), this calculation is completed in accordance with generally accepted accounting principles.

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 last full fiscal year 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. In no event shall any portion of the excess Net Profits be retained or contributed to such reserve if the amount of the reserve as of the end of such fiscal year equals or exceeds ten percent (10%) of the preceding year's Annual Gross Revenues. The reserve is to be noncumulative.

**Section 7.02** Payment of Dividend and Excess Profit Charge. In the event the Net Profits of the Entity shall exceed the Allowable Net Profits for the period, taken as one accounting period, commencing on the Annual Service Charge Start Date and terminating at the end of the last full fiscal year, then the Entity, within one hundred and twenty (120) days after the end of that fiscal year, shall pay such excess Net Profits to the City as an additional service charge; provided, however, that the Entity may maintain a reserve as determined pursuant to aforementioned Section 7.01. The calculation of Net Profit and Allowable Net Profit shall be made in the manner required pursuant to N.J.S.A. 40A:20-3(b) and (c) and 40A:20-15.

Pursuant thereto, the calculation of Net Profit shall be cumulative for the period commencing on the date on which the construction of the project is completed, and terminating at the close of the fiscal year of the entity for the year of each annual audit, with any negative amounts of profit from prior years being carried forward and included in the accumulated excess profit calculation consistent with City of Newark vs. First Newark Gateway Urban Renewal Association, Docket No. ESX-L-1160-91 (NJ Super. Law Div. August 8, 1994).

**Section 7.03** 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 City the amount of the reserve, if any, maintained by it pursuant to Section 7.01 and the excess Net Profits, if any.

**ARTICLE VIII**  
**ASSIGNMENT AND/OR ASSUMPTION**

**Section 8.01** Restrictions on Transfer.

(a) Prior to the issuance of a Certificate of Completion, the Entity shall be permitted to transfer the Project, its ownership interest in the Land or any ownership interest in the Entity in accordance with the Redevelopment Agreement. After the issuance of a Certificate of Occupancy, except as set forth in the following subsections, the Entity may not voluntarily transfer more than ten percent (10%) of the ownership of the Project or any portion thereof until it has first removed both itself and the Project from all restrictions imposed by the Long Term Tax Exemption Law, in the manner provided by the Long Term Tax Exemption Law. Nothing herein shall prohibit any transfer of the ownership interest in the Entity itself provided that the transfer, if greater than ten percent (10%) of the direct ownership interests, is disclosed to the City Council in the annual disclosure statement required pursuant to Section 6.02(b) of this Agreement or in correspondence sent to the City Clerk in advance of the annual disclosure in accordance with N.J.S.A. 40A:20-5e.

(b) As permitted by N.J.S.A. 40A:20-10, it is understood and agreed that the City, on written application by the Entity, will consent to a sale of the Project and the transfer of this Agreement provided that: (1) the transferee entity is formed and eligible to operate under the Long Term Tax Exemption Law; (2) the transferee entity does not own any other project subject to long term tax exemption at the time of transfer; (3) the Entity is not then in Default of this Agreement or Applicable Law; and (4) the Entity's obligations under this Agreement are fully assumed by the transferee entity.

**Section 8.02** Collateral Assignment. Notwithstanding the foregoing, it is expressly understood and agreed that the Entity has the right to encumber and/or assign the fee title to the Land and/or Improvements for purposes of (i) financing the design, development and construction of the Project and (ii) permanent mortgage financing.

(a) The City agrees that the Entity and or its affiliates may 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 City 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 City hereunder to provide any notice of Default or notice of intent to enforce its remedies under this Agreement.

(b) Without limiting the generality of Article XIII hereof, if the Entity shall Default in any of its obligations hereunder, the City shall give notice of such Default to the Secured Parties and the City agrees that, in the event such Default is not waived by the City 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 City will provide the Secured Parties a reasonable period of time to cure such Default, but in any event not less than fifteen (15) days from the date of such notice to the Secured Parties with regard to a failure of the Entity to pay the Annual Service Charge or Land Taxes 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 City 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 City'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.

(d) Notwithstanding anything to the contrary contained herein, and in addition to all other rights and remedies of Secured Parties set forth in this Agreement, the provisions of N.J.S.A. 55:17-1 to -11 shall apply to this Agreement to protect the interest of any Secured Party.

#### **ARTICLE IX WAIVER**

**Section 9.01. Waiver.** Either Party's election of any remedy shall not be construed as a waiver of any other remedies available to that Party.

#### **ARTICLE X COMPLIANCE**

**Section 10.01 Statutes and Ordinances.** The Entity hereby agrees at all times prior to the Termination Date to remain bound by the provisions of the Application and Applicable Law, including, but not limited to, the Long Term Tax Exemption Law. The Entity's failure to comply with such statutes or ordinances shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate this Agreement, subject to the Default procedure provisions of Article XIII herein.

#### **ARTICLE XI CONSTRUCTION**

**Section 11.01 Construction.** This Financial Agreement shall be construed and enforced in accordance with the laws of the State, and without regard to or aid or any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Entity and the City have combined in their review and approval of same.

#### **ARTICLE XII INDEMNIFICATION**

**Section 12.01 Indemnification.** It is understood and agreed that in the event the City shall be named as party defendant in any action brought against the City or Entity by allegation of any breach, Default or a violation by the Entity of any of the provisions of this Agreement and/or the provisions of the Long Term Tax Exemption Law, Entity shall indemnify and hold the City 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 to the extent arising out of or resulting from any breach, Default or a violation by the Entity of any of the provisions of this Agreement and/or the provisions of the Long Term Exemption Law,

N.J.S.A. 40A:20-1 et seq., except for that which results from any negligence or misconduct by the City or any of its officers, officials, employees or agents, and Entity shall defend the suit at its own expense. Notwithstanding the foregoing, the City maintains the right to intervene as a party thereto, to which intervention Entity hereby consents, the expense thereof to be borne by Entity. To the extent practical and ethically permissible, the Entity's attorneys shall jointly defend and represent the interest of the City and the Entity as to all claims indemnified in connection with this Agreement.

### **ARTICLE XIII** **DEFAULT AND REMEDIES**

**Section 13.01 Cure Upon Default.** Should the Entity be in Default, the City shall notify the Entity and any Secured Party in writing of said Default. Said notice shall set forth with particularity the basis of said Default. Except as provided in Section 8.02(b) hereof or otherwise limited by law, the Entity shall have sixty (60) days after it receives Notice to cure any Default (other than a Default in payment of any installment of the Annual Service Charge, which Default must be cured within fifteen (15) days after the Entity receives Notice). Curing the Default shall be the sole and exclusive remedy available to the Entity or the Secured Party, as applicable; provided, however, that if, in the reasonable opinion of the City, the Default cannot be cured within the applicable cure period using reasonable diligence, the time to cure may be extended upon written notice for an additional ninety (90) day period of time.

Upon the expiration of the cure period, or any approved extension thereof, and providing that the Default is not cured, the City shall have the right to terminate this Agreement in accordance with Section 13.02 of this Agreement.

**Section 13.02 Remedies Upon Default.**

(a) In the event the Entity or a Secured Party fails to cure or remedy the Default within the time period provided in Sections 13.01 or 8.02(b), respectively, the City may terminate this Agreement upon thirty (30) days written notice to the Entity and the Secured Party.

(b) Upon any Default in payment of any installment of the Annual Service Charge not cured within fifteen (15) days, the City in its sole discretion shall have the right to immediately exercise the following remedies: (1) terminate this Agreement, at which time: the Improvements on the Land shall be subject to conventional taxation; or (2) exercise any other remedy available to the City in law or equity. The City as a courtesy will give Entity and any Secured Party notice of the intention to exercise its remedies.

(c) No Default hereunder by the Entity shall terminate the tax exemption (except as described herein and after Notice and cure as provided for herein) and its obligation to make Annual Service Charges, which shall continue in effect for the duration of the term hereof and subject to Section 13.03 hereinafter.

(d) All of the remedies provided in this Agreement to the City shall be cumulative and concurrent and no determination of the invalidity of any provision of this Agreement shall deprive

the City of any of its remedies or actions against the Entity as set forth in Section 13.02(b) because of Entity's failure to pay Land Taxes, the Annual Service Charge and/or any applicable water and sewer charges and interest payments.

(e) In no event shall either party be liable for consequential damages.

**Section 13.03 Final Accounting.** Within ninety (90) days after the Termination Date, the Entity shall provide a final accounting and pay to the City the reserve, if any, pursuant to the provisions of *N.J.S.A.* 40A:20-13 and 15 as well as any excess Net Profits. For purposes of rendering a final accounting, the Termination Date of the Agreement shall be deemed to be the end of the fiscal year for the Entity.

**Section 13.04 Conventional Taxes.** Upon the Termination Date, the tax exemption for the Project shall expire and the Land and the Improvements thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the City.

## **ARTICLE XIV** **DISPUTE RESOLUTION**

**Section 14.01 Arbitration.** In the event of a dispute arising between the Parties in reference to the terms and provisions as set forth herein, then the Parties shall submit the dispute to the American Arbitration Association in the State to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. Each Party to this Agreement shall designate an arbitrator, and the two (2) arbitrators shall choose a third arbitrator. The arbitrators designated and acting under this Agreement shall make a determination regarding the issue(s) in controversy in strict conformity with the terms of this Agreement and Applicable Law. Costs for said arbitration shall be borne equally by both Parties. In the event of a Default on the part of the Entity to pay any installment of the Annual Service Charge required by Article IV above, the City, in addition to their other remedies, and subject to Article 13 of this Agreement, reserves the right to proceed against the Property, in the manner provided by law, including the Tax Sale Law, and any act supplementary or amendatory thereof. Whenever the word "Taxes" appears, or is applied, directly or implied, to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as it is pertinent to this Agreement, as if the Annual Service Charge were taxes or municipal liens on land. In either case, however, the Entity does not waive any defense it may have to contest the rights of the City to proceed in the above-mentioned manner. Subject to the provisions of Articles XII and XIII, in the event of a Default under or breach of this Agreement by the Entity which is not cured within the applicable grace period, thereby causing a default under a mortgage or similar instrument issued by the Entity to finance construction of the Project (or any refinance thereof), then the provisions of *N.J.S.A.* 55:17-1 to *N.J.S.A.* 55:17-11 shall apply, solely to protect the interest of the Secured Party or Secured Parties.

Notwithstanding anything herein to the contrary, no arbitrator shall have any power or authority to amend, alter, or modify any part of this Agreement, in any way.

**ARTICLE XV**  
**NOTICE**

**Section 15.01 Notice.** Formal notices, demands and communications between the City and Entity shall be deemed given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, or by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available (“Notice”). In that case such notice is deemed effective upon delivery. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by written notice.

Copies of all notices, demands and communications shall be sent as follows:

**If to the City:**

City of Linden  
301 North Wood Avenue  
Linden, NJ 07036  
Attention: Mayor

**with copies to:**

City of Linden  
One Main Street  
Linden, New Jersey 07095  
Attn: City Attorney

William W. Northgrave, Esq.  
McManimon, Scotland & Bauman, LLC  
75 Livingston Avenue  
Roseland, New Jersey 07068

**If to Entity:**

Goethals Commerce Park Urban Renewal LLC  
111 Great Neck Road

Great Neck, New York 11021  
Attn: Gregory Katz

Email:

**with copies to:**

Michael J. Caccavelli, Esq.  
Pearlman & Miranda, LLC  
110 Edison Place, Suite 301  
Newark, New Jersey 07102-4908

**ARTICLE XVI**  
**MISCELLANEOUS**

**Section 16.01 Conflict.** The Parties agree that in the event of a conflict between the Application and this Financial Agreement, the language in this Financial Agreement shall govern and prevail.

**Section 16.02 Oral Representations.** There have been no oral representations made by either of the Parties which are not contained in this Financial Agreement. This Financial Agreement, the Ordinance of the City authorizing this 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 the Parties and delivered to each of them.

**Section 16.03 Entire Document.** All conditions in the Ordinance of the City Council approving this Agreement are incorporated in this Agreement and made a part hereof. This Agreement, with all attachments and exhibits, the Ordinance and the Application shall constitute the entire agreement between the Parties, shall be incorporated herein by reference thereto and there shall be no modifications thereto other than by a written instrument approved and executed by and delivered to each Party. All prior agreements and understandings, if any, are superseded.

**Section 16.04 Good Faith.** In their dealings with each other, the Parties agree that they shall act in good faith.

**Section 16.05 Municipal Services.** The Entity and/or its successors (including without limitation any owner's or similar association) will be responsible to provide and/or pay for the following services:

(a) **Water & Sewer** – The Entity shall make payments for water and sewer charges and any services that create a lien on the Property with or superior to the lien for the Land Taxes and Annual Service Charge, as required by law.

(b) **Waste and Refuse Disposal** – Collection and disposition of all solid waste, refuse and recyclables emanating from the Project, shall be the responsibility of the Entity to have picked up and disposed of by a licensed collector, hauler, at the Entity's cost and expense. The City may establish regulations for the collection and for the storage and recycling of solid waste, discarded or old newspaper and/or other recyclables; compliance therewith shall be by and at the sole expense of the Entity.

**Section 16.06 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 16.07 Financing Matters.** The financial information required by the final paragraph of N.J.S.A. 40A:20-9 is set forth in the Application.

**Section 16.08 Amendments.** This Agreement may not be amended, changed, modified, altered or terminated without the written consent of the Parties hereto.

**Section 16.09 Certification.** The City 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 Property, has been entered into and is in effect as required by N.J.S.A. 40A:20-1, et seq. Delivery by the City Clerk to the Tax Assessor of a certified copy of the Ordinance adopted by the City Council approving the tax exemption described herein and this Financial Agreement shall constitute the required certification. Upon certification as required hereunder and upon the Annual Service Charge Start Date, the Tax Assessor shall implement the exemption and continue to enforce that exemption without further certification by the 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 City Clerk that the exemption has been terminated.

Further, upon the adoption of this Financial Agreement, a certified copy of the Ordinance adopted by the City Council approving the tax exemption described herein and this Financial Agreement shall forthwith be transmitted to the Director of the Division of Local Government Services by the City Clerk to the Chief Financial Officer of Middlesex County and to the Middlesex County Counsel, for informational purposes.

**Section 16.10 Conditions Precedent.**

This Agreement is expressly subject to the satisfaction by the Entity or the City of the following conditions precedent:

(a) Receipt by the Entity of all federal, State, county and municipal approvals required for the construction of the Project.

(b) Enactment by the City of all ordinances and other official action necessary under *N.J.S.A. 40A:20-1 et seq.* to enter into and effectuate the terms of this Agreement.

**Section 16.11 Construction.** This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Entity and the City have combined in their review and approval of same.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



## **EXHIBITS**

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

- A. Metes and Bounds description of the Property
- B. Project Description
- C. Application with Exhibits
- D. Ordinance
- E. Project Costs
- F. Certificate of Formation for the Entity
- G. Financial Plan for the Project
- H. Projected Revenues

**[SIGNATURE PAGES FOLLOW]**

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

**ATTEST:**

**CITY OF LINDEN**

\_\_\_\_\_  
**Joseph Bodek**  
City Clerk

By: \_\_\_\_\_  
**Derek Armstead**  
Mayor

**STATE OF NEW JERSEY**

**COUNTY OF UNION**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the City of Linden in the County of Union, State of New Jersey, by Mayor Derek Armstead, on behalf of the City.

\_\_\_\_\_  
Notary Public

Commission Expiration: \_\_\_\_\_



**EXHIBIT A**

**METES AND BOUNDS DESCRIPTION OF THE PROPERTY**

## **EXHIBIT B**

### **PROJECT DESCRIPTION**

The Project shall consist of performance of all site work and construction of an approximately 526,120 square foot warehouse and distribution facility. Please also referred to the attached “Outline Specifications” prepared by KSS, the Project Architect for a detailed description of the Project Improvements.

**EXHIBIT C**  
**APPLICATION WITH EXHIBITS**

**EXHIBIT D**  
**ORDINANCE**

**EXHIBIT E**  
**ESTIMATED PROJECT COSTS**



**EXHIBIT F**

**CERTIFICATE OF FORMATION  
AND CERTIFICATE OF AUTHORITY  
OF THE ENTITY**

**EXHIBIT G**  
**FINANCIAL PLAN FOR THE PROJECT**

Source of funds: The Project will be financed with a mix of equity and corporate level debt.

**THE INFORMATION ON THIS EXHIBIT IS PRELIMINARY AND SUBJECT TO CHANGE**

**EXHIBIT H**  
**PROJECTED REVENUES**

[City of Linden, Letterhead of Mayor]

September \_\_, 2020

Members of the City of Linden, City Council  
c/o Office of the City Clerk  
City of Linden  
301 North Wood Avenue  
Linden, New Jersey 07036  
Attn: City Clerk, Joseph C. Bodek

**Re: Long Term Tax Exemption Application-  
Goethals Commerce Park Urban Renewal, LLC (the “Entity”)**

Dear Members of the City Council:

The City of Linden (the “City”) received an application for long term tax exemption from the above-captioned Entity requesting a payment in lieu of taxes (the “PILOT”) for proposed improvements on property identified on the City’s tax maps as Block 513, Lots 4.01 and 4.02, more commonly known as, which application was submitted in accordance with the provisions of the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.*

The project consists of the construction of an organic waste anaerobic digester facility and related improvements (the “Project”). I believe this Project is a desirable improvement in the City. Therefore, I recommend that the City Council favorably consider a long term tax exemption for the Project, provided that all legal prerequisites have been met.

Sincerely yours,

Hon. Derek Armstead  
Mayor