

COOPERATION AGREEMENT

THIS COOPERATION AGREEMENT (this “Agreement”), made as of the ___ day of _____, 2019 (the “Effective Date”), by and between the **CITY OF HUDSON HOUSING AUTHORITY**, a municipal housing authority organized and existing under the laws of the State of New York having its offices located at 41 North Second Street, Hudson, New York 12534 (the “Authority”), and the **CITY OF HUDSON**, a municipal corporation having its offices at 520 Warren Street, Hudson, New York 12534 (the “City”). The Authority and the City are sometimes referred to individually herein as a “Party” and, collectively, as the “Parties”.

WITNESSETH:

WHEREAS, the Authority is a Municipal Public Housing Authority established pursuant to Section 484 of the New York Public Housing Law (“PHL”) to provide low-rent housing for qualified individuals in accordance with federal and state law; and

WHEREAS, in order to carry out its purposes, the Authority is vested with broad powers pursuant to the PHL, including the authority to acquire, hold, and dispose of real and personal property, borrow money and issue bonds, enter into contracts and leases, and to generally do all things necessary or convenient to carry out its powers; and

WHEREAS, the Authority owns certain real property in the City of Hudson, County of Columbia located at 41 North Second Street, identified on the City of Hudson assessment roll as SBL No. 109.35-2-19 (the “Project Site”); and

WHEREAS, pursuant to Sections 3 and 52 of the PHL, the Project Site, as property of the Authority, is “a federal project” and exempt from any and all local and municipal taxes as a matter of law; and

WHEREAS, the City and the Authority have recognized the need to rehabilitate the existing affordable housing on the Project Site; and

WHEREAS, pursuant to the Rental Assistance Demonstration program (“RAD”) as promulgated by the United States Department of Housing and Urban Development (“HUD”), the Authority intends to convert its existing housing portfolio located on the Project Site from HUD Section 9 public housing to HUD Section 8 housing (the “Project Facility”, and together with the Project Site and all buildings, structures, and all ancillary and additional improvements located thereon, hereinafter collectively referred to as the “Project”); and

WHEREAS, the Parties acknowledge and agree that, pursuant to Section 52 of the PHL, the Project, as property of the Authority, is and shall remain exempt from any and all local and municipal taxes to the fullest extent provided by law; and

WHEREAS, by Resolution _____ dated _____, 2019, the City has recognized that the Project is entitled to exemption from all local and municipal taxes, including school taxes; and

WHEREAS, consistent with the foregoing, the Parties have agreed to enter into this Cooperation Agreement with respect to the Project, whereby the Parties acknowledge and agree that the Project shall receive the exemptions provided and authorized by Section 52 of the PHL.

NOW, THEREFORE, in consideration of the mutual covenants expressed herein, and in order to set in writing the terms of their agreement, the Parties do mutually covenant and agree as follows:

1. The Recitals are incorporated herein as if fully set forth below and are made a material part of this Agreement.

2. For the purposes of this Agreement, the following defined terms shall have the meanings set forth opposite each defined term:

(a) “Calendar Year” shall mean each successive twelve (12) month period commencing on January 1 and ending on December 31;

(b) “Exemption Commencement Date” shall mean the first applicable Taxable Status Date following the Effective Date;

(c) “Shelter Rent” shall mean the total of all charges to all tenants of the Project for dwelling rents and non-dwelling rents (excluding all other income of the Project), less the cost to the Authority of all dwelling and non-dwelling utilities for the Project; and

(d) “Taxable Status Date” shall mean March 1st of each Calendar Year.

3. The Parties acknowledge and agree that the Project is currently exempt upon the assessment rolls of the City pursuant to Section 52 of the PHL, and the Authority is obligated to make certain payments in lieu of taxes to the City pursuant to that certain Cooperation Agreement by and between the City and the Authority, dated August 10, 1966 (the “Prior Agreement”). Provided the City maintains the Project as exempt on the assessment rolls of the City, commencing as of the Effective Date and continuing until the Exemption Commencement Date, the Authority shall pay to the City such amounts which otherwise would have been due under Section 3(b) of the Prior Agreement, at such times and in such manner as required by the Prior Agreement. Upon the Authority’s conversion of its public housing units to HUD Section 8 project-based vouchers, HUD will replace that certain Annual Contributions Contract, by and between the Authority and HUD relating to the Project, with a RAD Use Agreement, to be entered into by the Authority and HUD relating to the Project, and PILOT Payments (as hereinafter defined) will be computed as described in this Agreement.

4. Consistent with and pursuant to Section 52 of PHL, the Parties acknowledge that the Project shall, during the Term (as hereinafter defined) of this Agreement, be assessed by the City as exempt upon the assessment rolls of the City prepared subsequent to the Effective Date of this Agreement, and no ad valorem taxes, special district or improvement district ad valorem assessments, or payments in lieu thereof, shall be assessed against the Project (the “Exemption”).

5. The Parties intend that the payment terms in this Agreement are the same as those set forth in the Prior Agreement. Accordingly, for so long as the Exemption is not terminated or

withdrawn by the City and the Project is used for the purposes of public and affordable housing, the Authority shall pay annually to the City as payments in lieu of taxes the following amounts subject to the terms and conditions hereof:

(a) Commencing in the first full Calendar Year following the Exemption Commencement Date and continuing each Calendar Year thereafter throughout the Term hereof, the Authority shall pay to the City, on or before the date which is ninety (90) days after the end of each fiscal year of the Authority for the Project, payments in lieu of taxes and special assessments (“PILOT Payments”) in an amount equal to either (i) ten percent (10%) of the Shelter Rent charged by the Local Authority in respect to such Project during such fiscal year, or (ii) the amount permitted to be paid by applicable State law in effect on the date such payment is made, whichever amount is lower. PILOT Payments made in any given Calendar Year shall apply to the then current tax year of each Taxing Entity (as hereinafter defined).

(b) PILOT Payments may be apportioned by the City, in the City’s sole discretion, among the various taxing entities having jurisdiction over the Project, including, without limitation, any county, city, school district, town, village or other political unit or units wherein the Project is located (each a “Taxing Entity”, and collectively, the “Taxing Entities”) in such proportions as may be determined by the City, in the City’s sole discretion.

(c) Any ad valorem special improvement district charges, special district charges or special assessments the Authority shall be required to make to any existing or newly formed special districts or special improvement districts for services or projects shall be credited against the PILOT Payments to be made hereunder. Any such credit shall be applied on the date which the PILOT Payment is due under this Agreement in the same Calendar Year in which any such special district or special improvement district charge is paid by the Authority.

6. If the Authority violates any provision of this Agreement, and such violation is not cured by the next Taxable Status Date, the City may terminate this Agreement after thirty (30) days’ notice to the Authority of such intent to terminate; provided, however that if such violation cannot reasonably be cured by the next Taxable Status Date, then the Authority shall not be deemed to be in default if it shall commence such performance prior to such Taxable Status Date and thereafter diligently prosecutes the same to completion.

7. The Authority shall have all of the rights and remedies of a taxpayer with respect to any PILOT Payment, tax, service charge, special benefit, ad valorem levy, assessment, special assessment or service charge which the Authority is obligated to pay pursuant to this Agreement.

8. The Authority shall have all of the rights and remedies of a taxpayer with respect to any tentative or final assessment, change in assessment or denial or revocation of the Exemption, either in part or in whole, with respect to the Project by the City or other Taxing Entity having jurisdiction over the Project and likewise shall be entitled to protest before and be heard by the appropriate Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment, the validity or amount of any tax equivalent provided for herein or the denial or revocation of the Exemption, either in part or in whole.

9. The term of this Agreement (the “Term”) shall commence on the Exemption Commencement Date and shall continue thereafter as provided by applicable law, unless otherwise terminated as provided herein.

10. In the event this Agreement is terminated or the Project is declared to be subject to taxation, in whole or in part, by the Assessor or Board of Assessment Review of the City, an amendment to present law, resolution of the City or other legislative change, final judgment of a court of competent jurisdiction or any such other means, then the obligations of the Authority hereunder shall be null and void, including, without limitation, the payment of any PILOT Payments due hereunder.

11. If PILOT Payments are not made as provided herein, the City shall be entitled to pursue any and all remedies afforded to it at law or in equity.

12. Any notices made pursuant to or required under this Agreement will be in writing and will be served by personal delivery, or by prepaid, express mail (next day) via a nationally known courier service, or by prepaid, registered or certified mail, addressed to the respective parties at their addresses set forth below. Any such notice will be deemed to be given and effective: (i) if personally delivered, then on the date of such delivery; (ii) if sent via express mail (next day) then one (1) business day after the date such notice is sent; or (iii) if sent by registered or certified mail, then three (3) business days following the date such notice is deposited in the United States mail addressed as aforesaid. For purposes of this Agreement, “business day” shall be deemed to mean a day of the week other than a Saturday or Sunday or other holiday recognized by banking institutions of the State of New York. Copies of all notices shall be sent to the following:

If to the Authority:

Hudson Housing Authority
41 N. 2nd Street
Hudson, New York 12534
Attn: Executive Director

With a copy to:

Whiteman Osterman & Hanna LLP
One Commerce Plaza – 19th Floor
Albany, New York 12260
Attn: Robert M. Gach, Esq.

If to the City:

City of Hudson
520 Warren Street
Hudson, New York 12534
Attn: Corporation Counsel

13. As of the Exemption Commencement Date, no Cooperation Agreement heretofore entered into between the City and the Authority shall be construed to apply to any Project or portion thereof covered by this Agreement.

14. This Agreement shall inure to the benefit of, and shall be binding upon, the Authority and the City, and their respective successors and assigns, including, without limitation, subsequent owners of the Project Site and/or Project.

15. This Agreement is intended by the Parties as the final, complete, and exclusive statement of the transactions evidenced by this Agreement. All prior or contemporaneous promises, agreements and understandings, whether oral or written, are deemed to be superseded by this Agreement, and no Party is relying on any promise, agreement, or understanding not set forth in this Agreement. This Agreement may not be amended or modified except by a written instrument describing such amendment or modification executed by the Parties.

16. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

17. This Agreement will be construed and enforced in accordance with the laws of the State of New York, without giving effect to any conflict of laws or choice of law rules to the contrary.

18. The Parties acknowledge and agree that the Prior Agreement shall terminate as of the Exemption Commencement Date and thereafter shall be null and void and of no further force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITY OF HUDSON HOUSING AUTHORITY

By: Timothy Mattice
Title: Executive Director

CITY OF HUDSON

By:
Title: Mayor

STATE OF NEW YORK)
) ss:
COUNTY OF COLUMBIA)

On the __ day of _____ in the year 2019, before me, the undersigned, personally appeared TIMOTHY MATTICE, the Executive Director of the City of Hudson Housing Authority, a New York municipal housing authority, personally known to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
) ss:
COUNTY OF COLUMBIA)

On the __ day of _____ in the year 2019, before me, the undersigned, personally appeared _____, Mayor of the City of Hudson, a New York municipal corporation, personally known to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public