

AGREEMENT FOR PAYMENT IN LIEU OF TAXES (PILOT) BY AND AMONG THE CITY OF HUDSON, NEW YORK AND HUDSON LOFTS PARTNERSHIP HOUSING DEVELOPMENT FUND COMPANY, INC.

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (“Agreement”), dated as of _____, 2022, by and among the **CITY OF HUDSON, NEW YORK**, a New York incorporated municipality, having its principal office located at 520 Warren Street, Hudson, New York 12534 (the “City”), and **HUDSON LOFTS PARTNERSHIP HOUSING DEVELOPMENT FUND COMPANY, INC.**, a to be formed New York not-for-profit corporation and entity organized pursuant to Article XI of the Private Housing Finance law, having its principal place of business at c/o Hudson River Housing, Inc., 313 Mill Street, Poughkeepsie, New York 12601 (the “HDFC”), which HDFC will hold title to the Property (as hereinafter defined) for the benefit of **HUDSON LOFTS PARTNERSHIP, LIMITED PARTNERSHIP**, a to be formed New York limited partnership, having its principal office located at c/o Kearney Realty & Development Group, Inc., 57 Route 6, Suite 207, Baldwin Place, New York 10505 (the “Partnership”).

WHEREAS, the HDFC is the bare legal or record owner, and the Partnership is the beneficial and equitable owner, of certain real property located at, State & North Fourth Street (Tax Map # 109.44-2-66) and N Third & Mill Street (Tax Map # 109.36-1-10), City of Hudson, County of Columbia, State of New York, and more specifically described at Exhibit A attached hereto and incorporated herein by reference (the “Property”); and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law and Article XI of the Private Housing Finance Law (“PHFL”); and

WHEREAS, the HDFC is the co-general partner of the Partnership; and

WHEREAS, the HDFC and the Partnership have each been formed for the purpose of providing residential rental accommodations for persons of low-income; and

WHEREAS, the Partnership will develop, own, construct, maintain and operate a housing project for persons of low income at the Property (the “Project”); and

WHEREAS, the HDFC’s and the Partnership’s plan for the use of the Property constitutes a “housing project” as that term is defined in the PHFL; and

WHEREAS, the HDFC is a “housing development fund company” as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to Section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, the Council Members of the City of Hudson, New York, by resolution adopted _____, 2022, approved and authorized the execution of this Agreement;

NOW, THEREFORE, it is agreed as follows:

1. Pursuant to Section 577 of the PHFL, the City hereby exempts from local and municipal taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Property located at State & North Fourth Street (Tax Map # 109.44-2-66) & N Third & Mill Street (Tax Map # 109.36-1-10), City of Hudson, County of Columbia, State of New York, including both land and improvements. "Local and Municipal Taxes" shall mean any and all real estate taxes levied by Columbia County ("County"), the City and the School District ("School District") or other taxing jurisdiction (collectively the "Taxing Jurisdictions").

2. This tax exemption will operate for a period of thirty (30) years from the HDFC's acquisition of the Property. This Agreement shall not limit or restrict the HDFC's or Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement. The parties understand that the exemption extended pursuant to Section 577 of the PHFL and this Agreement does not include exemption from special assessments and special ad valorem levies. During the period of this Agreement, the Partnership shall pay any service charges, special ad valorem levies, special assessments and improvement district charges or similar tax equivalents which are or would be levied upon or with respect to the Project by the Taxing Jurisdictions or any other taxing authority.

3. So long as the exemption hereunder continues, the Partnership shall make annual payments in lieu of taxes ("PILOT") in the amount set forth in this section commencing in the year the Project obtains a Certificate of Occupancy, which payment shall cover all Local and Municipal Taxes owed in connection with the Property and the Project, and which payment shall be shared by Taxing Jurisdictions on the same basis as property taxes would be shared if the Property and the Project were fully taxed. The PILOT shall be in the amount of \$100,000 per year, increasing by two percent (2%) annually. So long as the tax exemption remains in effect, tenant rental charges shall not exceed the maximum established or allowed by law, rule or regulation, and the Property shall be operated in conformance with the provisions of Article XI of PHFL. Payment shall be due on February 15 of the calendar year following the taxable year to which this PILOT applies. Payments shall be mailed via First Class mail through the United States Postal Service or personally delivered to the City of Hudson, Attention Tax Collector, City of Hudson, 520 Warren Street, Hudson, New York 12534, or such other address as the City may specify in writing.

4. The tax exemption provided by this Agreement will continue for the term described above provided that (a) the Property continues to be used as housing facilities for persons of low-income in accordance with the income and rent limitations attached hereto at Exhibit B, and (b) any of the following occur (i) the HDFC and the Partnership operate the Property in conformance with Article XI of the PHFL; or (ii) the HDFC assumes sole legal and beneficial ownership of the Property and operates the Property in conformance with Article XI of the PHFL; or (iii) in the event an action is brought to foreclose a mortgage upon the HDFC, and the legal and beneficial interest in the Project shall be acquired at the foreclosure sale or from the mortgagee, or by a conveyance in lieu of such sale, by a housing development fund corporation organized pursuant to Article XI of the PHFL, or by the Federal government or an instrumentality thereof, or by a corporation which is, or by agreement has become subject to the supervision of the superintendent of banks or the superintendent of insurance, such successor in interest, such successor in interest shall operate the property in conformance with Article XI of the PHFL.

5. The failure to make the required payment will be treated as failure to make payment of taxes and will be governed by the same provisions of law as apply to the failure to make payment of taxes, including but not limited to enforcement and collection of taxes to the extent permitted by law. In addition to failure to pay any amount when due, HDFC and the Partnership shall be in default of this Agreement in the event of material failure to observe and perform any other covenant, condition of agreement on its part to be observed and performed hereunder, and continuance of such failure for a period of thirty (30) days after written notice specifying the nature of such failure and requesting that it be remedied; or any warranty, representation or other statement by or on behalf of HDFC or the Partnership contained in this Agreement shall prove to have been false or untrue in any material respect on the date when made or on the effective date of this Agreement. Any payment not received by its due date shall accrue interest and penalties at the rates provided for late payment of taxes to the Taxing Jurisdictions.

Whenever any event of default under this Agreement shall have occurred and be continuing, the City shall have the following remedies. The City may terminate this Agreement and exercise all of the rights and remedies available for failure to pay property taxes as and when due had this Agreement not been in effect. The City may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of HDFC and the Partnership under this Agreement, and the Partnership shall further pay the reasonable fees and disbursements of such attorneys as the City shall engage for the enforcement of performance or observance of any obligation, covenant or agreement on the part of HDFC and the Partnership and all other expenses, costs and disbursements so incurred.

No remedy herein conferred reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

No delay or omission in exercising any remedy shall impair any such remedy or construed to be a waiver thereof. It shall not be necessary to give any notice other than as expressly required under this Agreement. In the event any provision contained in this Agreement should be breached and thereafter duly waived by the party or parties so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder.

6. All notices and other communications hereunder shall be in writing and shall be sufficiently given when delivered to the applicable address stated above (or such other address as the party to whom notice is given shall have specified to the party giving notice) by registered or certified mail, return receipt requested or by such other means as shall provide the sender with documentary evidence of such delivery.

7. This Agreement shall inure to the benefit of and shall be binding upon the City the Partnership and the HDFC and their respective successors and assigns, including the successors in interest of the Partnership and the HDFC. There shall be no assignment of this Agreement except with consent of the other party, which consent shall not be unreasonably withheld, provided that the assignee or its general partner shall be a housing development fund company subject to Article

XI of the PHFL, the assignee shall have assumed the obligations of this Agreement in writing reasonably satisfactory to the City, and the assignee shall have provided such financial and other information as shall be reasonably requested by the City in order to assure the proper completion and operation of the housing project and the compliance with the terms of this Agreement and all applicable laws, regulations and covenants.

8. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

9. This Agreement may be executed in any number of counterparts with the same effect as if all the signing parties had signed the same document. All counterparts shall be construed together and shall constitute the same instrument.

10. This Agreement constitutes the entire agreement of the parties relating to payments in lieu of taxes with respect to the above-described property and supersedes all prior contracts, or agreements, whether oral or written, with respect thereto.

11. Each of the parties individually represents and warrants that the execution, delivery and performance of this Agreement, (i) has been duly authorized by proper action of its governing body and does not require any other consent or approval for the execution thereof by such municipality, (ii) does not violate any law, rule, regulation, order, writ, judgment or decree by which it is bound, and (iii) will not result in or constitute a default under any agreement or instrument to which it is a party. Each such party represents that this Agreement shall constitute the legal, valid and binding agreement of such party enforceable in accordance with its terms.

12. The Partnership and HDFC jointly and severally make the following representations, warranties and covenants:

(i) The HDFC is a “housing development fund company” under Article XI of the PHFL, and the Partnership is a limited partnership the co-general partner of which is HDFC, each of which is organized, validly existing and in good standing under the laws of the State and is authorized under the laws of the State to do business in the State, has the power to enter into this Agreement and to perform the transactions contemplated hereby and its obligations hereunder and by proper action has duly authorized the execution and delivery of this Agreement and the performance of its obligations hereunder, and the execution, delivery and performance of this Agreement does not require any other consent or approval. This Agreement shall constitute the legal, valid and binding agreement of HDFC and the Partnership enforceable in accordance with its terms.

(ii) Neither the Partnership nor HDFC is in default under, or in violation of, any indenture, mortgage, declaration, lien, lease, contract, note, order, judgment, decree or other instrument of any kind to which any of its assets are subject, and the execution, delivery and compliance by the Partnership or HDFC with the terms and conditions of this Agreement do not and will not conflict with or constitute or result in a default by the Partnership or HDFC in any material respect under or violation of, (1) the entity’s organizational documents, (2) any agreement or other instrument to which such entity is a party or by which, to such entity’s knowledge, it is bound, or (3) any constitutional or

statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Partnership or HDFC or its property, and no event has occurred and is continuing which, with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.

(iii) The Partnership has provided to the City true and complete financial information with respect to the Property, including without limitation project costs, financing sources, rents and income limitations.

(iv) The Partnership covenants and agrees to operate the Property in accordance with all applicable rules and regulations of Article XI of the PFHL, including without limitation applicable rent limits and income limits and in accordance with the plan attached hereto as Exhibit B.

(v) The Partnership covenants and agrees to provide to the City any information or documents reasonably requested in writing by the City in order to provide any federal, state or local entity with information or reports required under any applicable law, rule or regulation.

13. The City shall file a copy of the fully executed Agreement with the City Assessor. The Partnership shall be responsible for taking such actions as may be necessary to ensure that the Property shall be assessed as exempt upon the assessment rolls of the respective Taxing Jurisdictions, including without limitation ensuring that any required exemption form shall be filed with the appropriate officer or officers of each respective Taxing Jurisdiction. Such exemption shall be effective as of the first taxable status date of the applicable Taxing Jurisdiction following the date of this Agreement, provided that the Partnership shall timely file any requisite exemption forms.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, the City, the HDFC and the Partnership have caused this Agreement to be executed in their respective names by their duly authorized representatives and their respective seals to be hereunder affixed, all as of the date first above written.

DATED: _____, 2022

CITY OF HUDSON, NEW YORK

By: _____
Name:
Title: Mayor

DATED: _____, 2022

HUDSON LOFTS PARTNERSHIP HOUSING
DEVELOPMENT FUND COMPANY, INC.

By: _____
Name:
Title: Manager

DATED: _____, 2022

HUDSON LOFTS PARTNERSHIP, LIMITED
PARTNERSHIP

By: _____,
its managing general partner

By: _____
Name: Sean Kearney
Title: Manager

STATE OF NEW YORK)
)
COUNTY OF) SS.:

On the ____ day of _____, in the year 2022, before me personally appeared _____, personally known to me or proved 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 person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)
)
COUNTY OF) SS.:

On the ____ day of _____, in the year 2022, before me personally appeared _____, personally known to me or proved 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 s/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)
)
COUNTY OF) SS.:

On the ____ day of _____, in the year 2022, before me personally appeared _____, personally known to me or proved 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 person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

EXHIBIT A

ALL that certain plot, piece, or parcel of land situate, lying and being in the City of Hudson, County of Columbia, State of New York, and bearing Tax Grid No.: 100600-109.44-2-66 and Tax Grid No.: 100600-109.36-1-10

EXHIBIT B

Property improvements shall include a residential multifamily building on the parcel referred to as Mill Street: 109.36-1-10 and a mixed-use building on the parcel referred to as North 4th / State Street: 109.44-2-66. The combined mixed-use, mixed-income development shall be comprised of approximately eighty-one (81) residential units, and two (2) commercial spaces. Target AMI's will range from 30% to 110% of Columbia County's Area Median Income (AMI).