

TAX ABATEMENT AGREEMENT

THIS TAX ABATEMENT AGREEMENT (this "**Agreement**"), is entered into as of this day of _____, 2022, by and between the **CITY OF NEW HAVEN, CONNECTICUT**, organized and existing by virtue of an act of the General Assembly of the State of Connecticut, with offices at. 165 Church Street, New Haven, Connecticut (the "**City**") and **THE NEW HAVEN JEWISH COMMUNITY COUNCIL HOUSING CORPORATION** (the "**Owner**"), a nonprofit corporation organized and existing under the laws of the State of Connecticut and having a principal place of business at 18 Tower Lane, New Haven, Connecticut. The City and the Owner are referred to herein collectively as the "**Parties**" and each individually as a "**Party**".

WITNESSETH:

WHEREAS, The Towers at Tower Lane ("**The Towers**") is an elderly independent and assisted living development located at 18 Tower Lane, New Haven, Connecticut (the "**Property**") which has provided housing and extensive supportive services for very low income, low income and moderate income senior citizens for over fifty (50) years; and

WHEREAS, the Towers consist of two connected buildings known as Tower One and Tower East which collectively contain 328 apartments; and

WHEREAS, seventy-five percent (75%) of the units in the Tower One building are subsidized by the United States Department of Housing and Urban Development ("**HUD**") under its Project Based Section 8 program, and 100 percent (100%) of the units in the Tower East building are subsidized under HUD's Project Based Section 8 program; and

WHEREAS, prior to 2017, Tower One and Tower East had separate owners, with the Owner being the owner of Tower One and The New Haven Jewish Federation Housing Corporation being the owner of Tower East; and

WHEREAS, in 2017, the Owner and The New Haven Jewish Federation Housing Corporation merged with the Owner becoming the successor corporation; and

WHEREAS, the Owner and the City previously had entered into a Tax Abatement Agreement with respect to the Tower One building on March 13, 1969, as amended which expired on May 13, 2008, and which provided for the abatement of real property taxes due from the Owner to the City with respect to the Tower One building subject to partial reimbursement from the State of Connecticut; and

WHEREAS, in 2010, the Board of Aldermen of the City of New Haven approved an Ordinance, in accordance with Section 8-215 of the Connecticut General Statutes, which provided for the classification of the property on which The Tower One building is situated as property used for housing solely for low or moderate-income persons (the "**2010 Classification Ordinance**") ; and

WHEREAS, in 2010, in accordance with an ordinance approved by the Board of Aldermen, the parties entered into a tax abatement agreement, which will expire on June 30, 2049 and which provides for the abatement of real property taxes due from the Owner to the City on the Tower One property and that the Owner will make a Payment in Lieu of Taxes ("PILOT") to the City in the amount of the real property taxes due to the City except for the amount of reimbursement received by the City from the State of Connecticut (the "**Tower One Tax Abatement Agreement**"); and

WHEREAS, since 2012-2013, the City has not received any reimbursement from the State of Connecticut, and, therefore, for at least the past nine years the Owner has been making PILOT payments in the full amount of the real property taxes that would be due for the Tower One property in the absence of a tax abatement agreement; and

WHEREAS, on December 31, 1980, the City and the New Haven Jewish Federation Housing Corporation entered into a Tax Abatement Agreement for the Tower East property abating the taxes for the Tower East property in an amount that represents the difference between the full amount of taxes that would be due to the City for such property in the absence of a tax abatement and six percent (6%) of the gross rent generated by the Tower East building (the "**Tower East Tax Abatement Agreement**"); and

WHEREAS, the Tower East Tax Abatement Agreement will expire on March 24, 2023; and

WHEREAS, on _____, the Board of Alders amended the 2010 Classification Ordinance to classify all of The Towers (including the Tower One building and the Tower East building) as a property used for housing solely for low or moderate-income persons or families; and

WHEREAS, on _____, pursuant to Section 28-4 of the Code of Ordinances of the City and Connecticut General Statutes, Section 8-215, the Board of Alders approved this Agreement and amended the 2010 Tower One Abatement Ordinance to terminate the Tower One Tax Abatement Agreement upon execution of this Agreement and terminated the Tower East Tax Abatement Agreement upon execution of this Agreement; and

WHEREAS, the Owner and the City wish to enter into this Agreement for the abatement of taxes for the Property, as provided herein; and

NOW THEREFORE, in consideration of the mutual promises, assurances and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, stipulated and admitted to, the Parties, intending to be legally bound, hereby agree as follows:

Section 1. Abatement.

(a) For purposes of this Agreement, the July and subsequent January installments of real property tax during the term of this Agreement shall be defined as a "Tax Year".

(b) Commencing with the January 2023 installment and continuing for thirty-nine (39) Tax Years subsequent to that date and up to and including the January 2063 installment (the "**Tax Agreement Period**"), the real property taxes for the Property shall abate such that the annual sum payable for each Tax Year shall be determined by multiplying the number of rental units at The Towers by the sum of \$350.00 (the "**Base Rate**").

(c) Notwithstanding the provisions of Section 1(b) above, it is agreed and understood that the Base Rate shall be increased each Tax Year, commencing with the July 2024 Tax Year, by the automatic Operating Cost Adjustment Factor rent increase authorized by HUD for the subsidized units at The Towers as of September 1st of the previous Tax Year.

(d) It is hereby agreed, stipulated and understood that at the expiration of the Tax Agreement Period, the full amount of all City real property taxes then assessed with respect to the Property shall be payable in full by the then owner of the Property.

(e) Notwithstanding the provisions of this Section 1, the Owner and any successor in interest to the Owner shall have the right to appeal any assessment of the Property available under Title 12 of the Connecticut General Statutes.

(f) The Owner shall provide the City's Tax Collector with information required by the Tax Collector to calculate the tax abatements provided under this Agreement.

(g) The Owner shall pay the abated taxes for the Property owed pursuant to this Agreement when and as due. In the event that the Owner fails to pay timely any amounts set forth in Subsections 1(b) and (c) above of this Agreement, the delinquent amounts shall be subject to the provisions of the Connecticut General Statutes pertaining to interest on delinquent tax payments, and the City shall have all rights and remedies provided under the Connecticut General Statutes with respect to such delinquency.

Section 2. Use of Abated Taxes

All funds accruing or expenditures saved from the tax abatement provided by this Agreement shall, be used for one or more of the following purposes:

(a) To reduce rents below the levels which would be achieved in the absence of such abatement;

(b) To provide necessary related facilities or services;

(c) To effect occupancy by persons and families of varying income levels, within prescribed limits; or

(d) To improve housing quality and design.

Section 3. Inspection, Audit and Access to Records.

(a) The Owner shall maintain records which fully disclose the disposition by the Owner of the tax abatement benefits used by the Owner for the purposes proposed in accordance with Section 2.

(b) To ascertain that the tax abatement benefits granted hereunder are being properly utilized in accordance with this Agreement, the City, by its duly designated agents, shall have full and free access to all books, accounts, documents, papers and records of the Owner setting forth the disposition of the tax abatement benefits pursuant to this Agreement (the "**Abatement Records**"), and shall have the right to audit and make copies of and excerpts from the same.

(c) The Abatement Records shall not be considered public records subject to disclosure pursuant to Section 1-200 et seq. of the Connecticut General Statutes, but shall be made available, at reasonable times and upon written request, to the duly authorized representatives of the State and the City.

Section 4. Reporting Requirements

The Owner shall submit to the City by October 1st of each year documentation demonstrating that each resident of the Property is a low or moderate-income person or family including actual rent rolls by individual housing unit.

Section 5. Grounds for Termination, Suspension or Reduction of Abatement.

This Agreement may, at the option of the City, be terminated, suspended or modified, and the abatement granted hereunder terminated, suspended or reduced:

(a) If at any time the dwelling units upon which taxes have been abated pursuant to this Agreement are not occupied solely by low and moderate-income persons and families;

(b) If the tax abatement benefits are not being used by the Owner for the purposes proposed in accordance with Section 2; or

(c) In the event of any other breach or default, by the Owner of any of the terms and conditions of this Agreement.

Section 6. Termination; Procedure.

(a) If the City exercises its option to terminate or suspend this Agreement for the reasons set forth in Section 5, the City shall first send to the Owner a written notice of breach or default, setting forth the particulars and demanding that the conditions or actions complained of shall be corrected within a prescribed period of not less than one hundred and twenty (120) days from receipt of the notice. The Owner shall within such prescribed period, cure the default, or if correction within such time is not reasonably possible, cure the default within such additional time as may be reasonably necessary, so long as the Owner is diligently pursuing such cure. In the event that the conditions or actions complained of are not corrected to the reasonable satisfaction of the City within the prescribed period, the City may suspend or terminate this Agreement by sending the Owner a written notice of suspension or termination, naming the effective date of such suspension or termination, which date shall be not less than ten days from receipt by the Owner of the said notice.

Section 7. Remedies not Exclusive

(a) The City, may, whether or not it exercises its option to terminate or suspend in accordance with Section 6, in addition or in lieu thereof, institute any actions and proceedings at law or in equity, to compel specific performance, injunctive relief, restitution, and/or the payment of all damages, expenses and costs.

(b) In the event that the City breaches any of its obligations under this Agreement, the Owner shall retain all remedies against the City which may be available at law or equity for breach of contract, including specific performance and injunctive relief.

(c) The rights and remedies of the parties, whether provided by law or by this Agreement, shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude the exercise at the same or different times of any other such right or remedies.

Section 8. Non-Waiver of Remedies.

The failure or omission of a Party to terminate this Agreement or to invoke any rights or remedies to which it may be entitled under this Agreement or otherwise for the causes hereinabove set forth, or for any other cause or reason, shall not be deemed or construed to be a waiver of, and shall not destroy or affect, the right of such Party to terminate this Agreement or to invoke such rights or remedies of any future time for the same, similar or other causes or reasons.

Section 9. Severability.

If any provision of this Agreement is held illegal, invalid or unenforceable, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the requirements of applicable law. Furthermore, in lieu of such illegal, invalid or unenforceable provision, the City and the Owner will take reasonable efforts in an attempt to

agree to valid replacement provisions similar in nature to the illegal, invalid or unenforceable provision.

Section 10. Amendments.

This Agreement constitutes the entire contract between the Parties. No changes in this Agreement shall be made except by a writing attached to this Agreement and signed by a duly authorized officer of the Owner and by the duly authorized officer of the City.

Section 11. Approvals and Notices.

Except as otherwise specifically provided in this Agreement, whenever under this Agreement approvals, authorizations, determinations, satisfactions or waivers are required or permitted, such approvals, authorizations, determinations, satisfactions or waivers shall be effective and valid only when given in writing signed by a duly authorized officer of the City or the Owner, as the case may be, and sent by (i) registered or certified mail, postage prepaid, (ii) overnight carrier, (iii) email, or (iv) personal delivery to:

For the Owner:

Gustave Keach-Longo

President/CEO

The New Haven Jewish Community Council Housing Corporation

18 Tower Lane

New Haven, Connecticut 06519

Gus@towerlane.org

- and -

Carolyn W. Kone

Brenner, Saltzman & Wallman LLP

271 Whitney Avenue

New Haven, CT 06511

ckone@bswlaw.com

For the City:

Michael Gormany

Acting Controller

City of New Haven

200 Orange Street

New Haven, Connecticut 06510

Mgormany@newhavenct.gov

- and -

Maurine Villani

Tax Collector

165 Church Street

New Haven, CT 06510

mvillani@newhavenct.gov

- and -

Patricia Solomon
Contract Compliance –Finance
200 Orange Street
New Haven, CT 06510
PSolomon@newhavenct.gov

- and -

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mpinto@newhavenct.gov

The Owner and the City shall promptly notify each other of any changes of their respective persons to whom notice shall be given and/or addresses set forth above.

Section 12. Matters to Be Disregarded.

The titles of the several sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

Section 13. Non-Discrimination.

In the selection of tenants and in the performance of this Agreement, the Owner shall not discriminate nor permit discrimination against any person or group of persons in any manner prohibited by the laws of the State of Connecticut or of the United States.

Section 14. No Waiver.

Nothing in this Agreement shall be construed as constituting any waiver by the Owner of Owner's right to contest any assessment of the Property in accordance with the procedures applicable to all taxpayers for contesting an assessment.

Section 15. Termination of Tax Abatement Agreements.

The parties hereby acknowledge and agree that upon execution of this Agreement by the Parties, the Tower One Tax Abatement Agreement and the Tower East Tax Abatement Agreement shall terminate and be of no force and effect.

Section 16. Successors and Assigns.

This Agreement shall run with the land and inure to the benefit of and be binding upon the City and the Owner and their respective successors and assigns.

IN WITNESS WHEREOF, on this ____ day of _____, 2022, the Parties have caused this Agreement to be signed, sealed and delivered by their duly authorized officers, the City of New Haven acting herein by its Mayor and the Owner acting herein by its President/Chief Executive Officer.

Signed, Sealed and Delivered in the Presence of:

CITY OF NEW HAVEN

By: _____
Justin Elicker
Mayor

NEW HAVEN JEWISH COMMUNITY
COUNCIL HOUSING CORPORATION

By: _____
Gustave Keach-Longo
Its: President/Chief Executive Officer

Approved as to Form and Correctness:

Michael J. Pinto
Assistant Corporation Counsel

STATE OF CONNECTICUT)

) SS: New Haven

_____, 2022

COUNTY OF NEW HAVEN)

Personally appeared, Justin Elicker, Mayor of the City of New Haven and signer of the foregoing instrument and acknowledged the same to be his free act and deed and the free act and deed of said City of New Haven before me.

Commissioner of the Superior Court
Notary Public
My Commission Expires:

STATE OF CONNECTICUT)

) SS: New Haven

_____, 2022

COUNTY OF NEW HAVEN)

Personally appeared, Gustave Keach-Longo, President and Chief Executive Officer of The New Haven Jewish Community Council Housing Corporation and signer of the foregoing instrument and acknowledged the same to be his free act and deed and the free act and deed of said nonprofit corporation, before me.

Commissioner of the Superior Court
Notary Public
My Commission Expires: