

**AFTER RECORDING RETURN TO:**  
**MCCARTER & ENGLISH, LLP**  
CITYPLACE I  
185 Asylum Street  
Hartford, Connecticut 06103

**TAX AGREEMENT BY AND BETWEEN  
THE CITY OF NEW HAVEN  
AND  
RJDA ASHMUN STREET LLC**

This Tax Agreement (the "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2020, (the "Effective Date") by and between the City of New Haven, a Connecticut municipal corporation with a chief executive office located at 165 Church Street, New Haven, Connecticut 06510 (the "City"), and RJDA Ashmun Street LLC, a Connecticut limited liability company with an office located at 555 Long Wharf Drive, 11<sup>th</sup> Floor, New Haven, Connecticut 06511 ("RJDA"), its nominee, successors and assigns.

**W I T N E S S E T H :**

WHEREAS, RJDA is the owner of the real property located in the Newhallville neighborhood consisting of approximately 1.783 acres (77,634 square feet) located at 291 Ashmun Street, 309 Ashmun Street, and 178-186 Canal Street as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Developer plans to develop the Property to include at least one hundred fifty (150) residential units and related site improvements (the "Project"), with one third, but no less than fifty (50), of such units being maintained as Affordable Housing (as such term is defined hereinbelow) for the Affordability Period (as such term is defined hereinbelow); and

WHEREAS, pursuant to Legislative File # LM-2019-0556, attached hereto as Exhibit A, which was approved by referendum vote on November 7, 2019, the City may exercise certain powers pursuant to the Connecticut City and Town Development Act, C.G.S. § 7-480 *et. seq.* ("Act"), including the authority to enter into agreements for payments-in-lieu-of-taxes ("PILOT") on development property as set forth in C.G.S. § 7-498; and

WHEREAS, pursuant to Legislative File # LM-2020-XXXX adopted by the Board of Alders of the City on [INSERT DATE APPROVED], a copy of which is attached hereto as Exhibit B, (the "City Approval") the City has (a) approved the Project, (b) designated RJDA as a "sponsor" under the Act, (c) designated the Property as "development property" under the Act, and (d) agreed that RJDA shall make PILOT payments to the City as further set forth herein; and

WHEREAS, the Property shall be subject to certain restrictions as set forth in that certain Development and Land Disposition Agreement by and between the City and RJDA (the "DLDA"), effective as of the date hereof, requiring that one third, but no fewer than fifty (50), of the residential units on the Property be maintained as Affordable Housing Units, as defined below, for the entire Affordability Period, which affordability restrictions are consistent with the

City Approval, the DLDA, and are a condition of the City entering into this Agreement (“the Affordability Requirements”); and

WHEREAS, the City and RJDA wish to set forth the respective rights and obligations of the parties with respect to the making of PILOT payments by RJDA with respect to the Property.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

#### **ARTICLE 1: Definitions**

101. "Affordable Housing Unit", in the singular, and "Affordable Housing Units", in the plural, shall mean those units, singly or in aggregate, respectively, of the Property that are restricted to low income and very low-income households as follows, for the duration of the Affordability Period:

(i) no fewer than 25 units shall be restricted to families and persons whose income does not exceed Eighty Percent (80%) of the area median income ("AMI") for the New Haven County, Connecticut area, with adjustments for the number of bedrooms in the unit;

(ii) no fewer than 15 units shall be restricted to families and persons whose income do not exceed Sixty Percent (60%) of the AMI for the New Haven County, Connecticut, with adjustments for the number of bedrooms in the unit; and

(iii) no fewer than 10 units shall be restricted to families and persons with Section 8 Housing Choice Vouchers (HCV).

102. "Affordability Period" shall mean twenty (20) years commencing from the Project Completion Date, as defined in the DLDA.

103. "Agreement" shall mean this Agreement, as it may be amended from time to time.

104. “Market Unit” shall mean all residential units on the Property that are not Affordable Housing Units.

#### **ARTICLE 2: Abatement of Real Property Taxes; Payment in lieu of Taxes**

201. The Affordable Housing Units in the Property which are the subject of this Agreement shall, during the Affordability Period, be classified as housing solely for low or very low-income households, as prescribed herein.

202. The City shall assess the Affordable Housing Units separate from the remainder of the Property and RJDA shall be liable for all taxes due on that portion of the Property not consisting of the Affordable Housing Units.

203. Commencing with the taxes for the **October \_\_\_\_** Grand List, which taxes are due July 1, 20[ ] and January 1, 20[ ], and during the Affordability Period, the real property taxes for the Affordable Housing Units shall be abated in full and RJDA shall pay to the City a payment in lieu of taxes (the "Annual Payment") in an amount equal to \$400.00 per Affordable Housing Unit, per year. The Annual Payment shall be paid in addition to and not in lieu of the real property taxes due on the remainder of the Property.

204. The Annual Payment shall be payable in two (2) equal installments (the "PILOT Installment Payments") on or before July 31 and January 31 of each year, **commencing July 31, 20[ ]**.

205. This Agreement shall be effective upon full execution hereof and shall expire upon the expiration of the Affordability Period.

### **ARTICLE 3: Rental of Units**

301. During the Affordability Period, the Developer shall maintain the Affordable Housing Units at the Property as housing as described in Section 101 of this Agreement, and as required under the terms and conditions of the DLDA.

### **ARTICLE 4: Default and Termination**

401. The following shall constitute a Default under this Agreement:

- a. Any default in the performance of RJDA's obligations with respect to the Affordability Requirements, where such default is not cured within the time provided in the DLDA shall constitute a Default of this Agreement.
- b. Any failure to make a PILOT Installment Payment in accordance with this Agreement shall constitute a Default of this Agreement.
- c. Any failure to complete the Project in accordance with the terms and conditions of the DLDA which is not cured within the time provided in the DLDA shall constitute a Default of this Agreement.

402. Any Default under this Agreement, where such Default shall continue for a period of thirty (30) days after written notice thereof by City to RJDA, shall result in the termination of this Agreement such that all real estate taxes and any other applicable municipal charges then existing with respect to the Property shall become immediately due and payable as of the date of such termination. Notwithstanding the foregoing, if the nature of the Default is such that more than thirty (30) days are reasonably required for its cure, then RJDA will not be in Default if RJDA commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

403. This Agreement shall terminate upon the expiration of the Affordability Period.

**ARTICLE 5: Conveyance**

501. The rights and obligations of this Agreement shall run with the land and shall be binding upon the Parties and their heirs, successors, and assigns.

**ARTICLE 6: Miscellaneous**

601. This Agreement shall be governed and construed in accordance with the laws of the state of Connecticut.

602. All notices required hereunder shall be in writing and shall be sent by registered or certified mail to the following addresses or to such other addresses as the parties hereto shall designate:

CITY: City of New Haven  
Office of Economic Development  
165 Church Street  
New Haven, Connecticut 06510  
Attn: Economic Development Administrator

WITH A COPY TO: City of New Haven  
ATTN: City Controller  
200 Orange Street, 3<sup>rd</sup> Fl  
New Haven CT 06510

RJDA: RJDA Ashmun Street LLC  
555 Long Wharf Drive  
New Haven, Connecticut 06511  
Attn: Yves-Georges A. Joseph II

With a copy to: Rolan Joni Young, Esq.  
McCarter & English, LLP  
CityPlace I  
185 Asylum Street  
Hartford, Connecticut 06103

603. This Agreement constitutes the entire agreement between the parties with respect to the matters set forth herein and all prior agreements and undertakings are merged herein. This Agreement may not be amended except in writing, signed by each of the parties.

604. The terms of the Exhibits attached to this Agreement shall be incorporated into the Agreement as if fully set forth herein.

605. This Agreement may be executed in counterparts, each of which, when assembled together, shall constitute one and the same original.

606. The City and the RJDA each binds itself, its partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement.

607. This Agreement shall survive the execution and delivery of any deeds, leases, or other documents required by, or referred to in this Agreement.

608. If any provision of this Agreement is held invalid, the balance of the provisions of this Agreement shall not be affected thereby. The balance of the provisions of this Agreement would then continue to conform to the requirements of applicable law.

609. Any waiver of the terms and conditions of this Agreement by either of the parties hereto shall not be construed to be a waiver of any other term or condition of this Agreement.

610. RJDA further agrees that it is subject to all applicable laws, ordinances and regulations of the Federal government, the State of Connecticut, and the City, as the same may be amended from time to time.

611. RJDA and the City hereby waive trial by jury as to any and all claims, disputes and causes of action arising out of or in connection with this Agreement.

612. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the DLDA.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, as of the day and year first above written at New Haven, Connecticut, the parties hereto have caused this Agreement to be signed, sealed and delivered by their duly authorized representatives.

Executed in the Presence of:

\_\_\_\_\_

CITY OF NEW HAVEN

\_\_\_\_\_

By: \_\_\_\_\_  
Justin Elicker  
Mayor

Approved as to Form and Correctness on behalf of the City:

By: \_\_\_\_\_

John Ward, Esq.  
Special Counsel to Economic Development

\_\_\_\_\_

RJDA ASHMUN STREET LLC

\_\_\_\_\_

By: \_\_\_\_\_

Duly Authorized

[ACKNOWLEDGMENTS FOLLOW]

STATE OF CONNECTICUT)  
 )  
COUNTY OF NEW HAVEN)

ss. \_\_\_\_\_

On this the \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned officer, personally appeared Justin Elicker, who acknowledged himself to be the Mayor of the City of New Haven, a municipal corporation, and he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained as his free act and deed and the free act and deed of the City of New Haven, by signing the name of the City of New Haven by himself as Mayor.

In witness whereof I hereunto set my hand.

\_\_\_\_\_  
Printed Name:  
Notary Public/ My Commission Expires:  
Commissioner of Superior Court

STATE OF CONNECTICUT)  
 )  
COUNTY OF NEW HAVEN)

ss. \_\_\_\_\_

On this the \_\_\_\_ day of \_\_\_\_\_, 2020 before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged her/himself to be the \_\_\_\_\_ of RJDA Ashmun Street LLC, a limited liability company, and s/he being authorized so to do, executed the foregoing instrument for the purposes therein contained as her/his free act and deed and the free act and deed of the company, by signing the name of the company by her/himself as such officer.

In Witness Whereof I hereunto set my hand.

\_\_\_\_\_  
Printed Name:  
Notary Public/ My Commission Expires:  
Commissioner of Superior Court

**EXHIBIT A – DESCRIPTION OF PROPERTY**



**EXHIBIT B-CITY APPROVAL**