

**TAX ABATEMENT AGREEMENT
BETWEEN THE CITY OF STAMFORD AND
ST. JOHN URBAN DEVELOPMENT CORPORATION**

This AGREEMENT made this ____ day of _____, 2021, (hereinafter the “Agreement”) is by and between **THE CITY OF STAMFORD**, a municipal corporation organized and existing under the laws of the State of Connecticut with a principal place of business located at Government Center, 888 Washington Boulevard, Stamford, Connecticut (hereinafter the “City”), acting herein by David R. Martin, its duly authorized Mayor, and **ST. JOHN URBAN DEVELOPMENT CORPORATION**, a domestic corporation with a principal place of business located at 101 Tresser Boulevard, Stamford, Connecticut (hereinafter the “Corporation”), acting herein by John Regan, its duly authorized President.

W I T N E S S E T H

WHEREAS, the Corporation has owned and operated a 360 unit affordable rental complex known as The Saint John Towers, located at 873 Washington Boulevard (Tower “A”), Stamford, Connecticut, 109 Tresser Boulevard (Tower “B”), Stamford, Connecticut and 133 Tresser Boulevard (Tower “C”), Stamford, Connecticut, respectively (collectively hereinafter the “Property”), which Property is more particularly described in Schedule A hereto and made a part hereof. For purposes of this Agreement, “Property” shall further be defined as the land described in Schedule “A” and the buildings or improvements located thereon, excluding the management office in Tower “B” and ground floor retail space of Tower “A”. All 360 units were subsidized under a 221(d)(3)BMIR contract between the Corporation and the U.S. Department of Housing and Urban Development (HUD) (hereinafter the “Below Market Units”), and occupancy was limited to households whose incomes were below 80% Area Median Income. It is the intent of the Corporation to continue the affordability of the property for at least thirty (30) years from the date of this Agreement, subject to the availability of LIHTC, HAP subsidy or other sources of funding;

WHEREAS, the Corporation and the City were parties to an agreement dated December 3, 1968, which agreement has expired, whereby the Corporation received a 100% tax abatement for the Property for so long as the Property was used solely as housing for low and moderate income persons or families and for so long as the State of Connecticut provided financial assistance in the form of a grant in aid to the City, which grant in aid was terminated on by the State of Connecticut on July 1, 2015;

WHEREAS, Tower A has been vacant since December 21, 2015 and the Corporation sold Tower A to FDAP 873, LLC on June 6, 2017(the “Tower A Sale Date”)

WHEREAS, on June 28, 2018, the Corporation paid \$447,906.61 (the “2018 Tower A Tax Payment”) for taxes (including fees, interest and penalties) relating to Tower A for the period from the expiration of the existing abatement agreement and the Tower A Sale Date;

WHEREAS, on September 3, 2020 the Corporation paid \$246,756.10 for taxes (including fees, interest and penalties) relating to Towers B and C (the “2020 Towers B and C

Tax Payment” and together with the 2018 Tower A Tax Payment, collectively the “2018 and 2020 Tax Payments”);

WHEREAS, the Corporation shall use the 240 Below Market Units on the Property for the housing of low and moderate income persons or families, which are defined for purposes herein as having annual household incomes at or below 60% of the Area Median Income at initial intake;

WHEREAS, the City is empowered to grant a real property tax abatement for rental Units used for low and moderate income persons or families under Chapter 220 of the Stamford Charter and Code of Ordinances, in accordance with the powers granted by Sections 8-215 of the Connecticut General Statutes, as amended;

WHEREAS, the Corporation is requesting that the City grant its request for an abatement of seventy five percent (75%) of all real property taxes assessed on the 360 Below Market Units at the Property, as such taxes may vary from year to year, for the purpose(s) described herein as such abatement is more particularly described in this Agreement provided the Corporation satisfies the further terms and conditions set forth herein;

WHEREAS, the City’s Tax Abatement Committee has made a recommendation that such request be granted by the City; and

WHEREAS, the City is willing to grant such abatement to the Corporation in accordance with the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the mutual undertaking herein contained and other valuable consideration, the parties hereby agree as follows:

1. Each fiscal year during the term of this Agreement, commencing as of the Commencement Date (as defined below), the Corporation agrees, warrants and represents that it will pay the City twenty five percent (25%) of real property taxes due annually, provided that the Corporation satisfies all of the further terms and conditions set forth in this Agreement. . Notwithstanding the foregoing, the City agrees to apply the 2018 and 2020 Tax Payments (including the interest, fees and penalties) to the taxes owed on all portions of the Property commencing with the Commencement Date (as defined below) and further, the City agrees to waive any penalties, fees, and interest owed on any real property taxes owed on all portions of the Property first accruing or assessed after the Commencement Date through the date of this Agreement;
2. The term of this Agreement shall be for a period of thirty years commencing retroactively from July 1, 2015 (the “Commencement Date”), for Towers B and C, and commencing on the same, retroactive date, but terminating on June 6, 2017 for Tower A. As set forth below in Section 5(d) below, the City may, in its discretion, extend the term of this Agreement as provided herein, which discretion shall not be unreasonably withheld provided that the Property is being occupied by low and moderate income persons or families. Further, the parties agree that this Agreement and the tax abatement set forth in

Section 1 hereof shall not be terminated or altered in the event that during the term hereof either Tower B or Tower C becomes partially or totally vacant for the purpose of remediation, renovation, redevelopment or other improvements or alterations to the Property provided that the primary intended use of the Property as housing low and moderate income persons or families is not being changed;

3. The Corporation agrees, warrants and represents that all Units on the Property shall be occupied by low or moderate income persons or families at initial occupancy and that monies equal to the amount of such taxes so abated shall be used exclusively for any one or more of the following purposes: to reduce rents below the level which would be achieved in the absence of such abatement, or to improve the quality and design of such housing, or to effect occupancy of such housing by persons and families of varying income levels within limits approved by the City, or to provide necessary related facilities or services in such housing.

Notwithstanding anything herein to the contrary, the Corporation further agrees, warrants and represents that monies equal to the amount of taxes so abated, throughout the entire term of this Agreement, and any extensions thereto, shall be used to fund any applicable long-term debt service in support of a mortgage loan providing funds to be used to implement major repairs and capital improvements intended to ensure the ongoing viability of the Property as an affordable housing resource, and any portions of the abated amount not so utilized shall be expended directly to defray the cost of repairs or capital improvements. The financial records and annual independent audits of the Corporation shall identify amounts expended for debt service and shall also identify amounts expended directly for repairs and capital improvements during each fiscal year;

4. The tax abatement described herein shall be effective as of the date of execution of this Agreement by the Mayor of the City of Stamford ("effective date") with the term commencing retroactively as of the Commencement Date as set forth in Section 2 above and shall continue thereafter until terminated as provided herein. Further, the annual payments described in paragraph numbered one above shall be paid to the City in the same manner and same timeframes as real property taxes are paid within the City. Any payment that is more than thirty (30) days late shall accrue interest at the same rate and in the same manner as delinquent real property taxes as provided for in Sec. 12-146 of the Connecticut General Statutes, as may be amended from time to time;
5. This Agreement shall terminate immediately upon the occurrence of:
 - a. At any time when the rental rates for such Below Market Units exceed Maximum Affordable Rents at 60% Area Median Income, as published annually by CHFA;
 - b. At any time when the Corporation fails to use the monies described in Section 3, above, for the purposes so described in said section;
 - c. In the sole discretion of the City, at any time when the Corporation is in material breach of this Agreement and has not reasonably cured such breach within 60 days (or 30 days in the event of a payment default) after written notice thereof from the City provided, however, that if the

nature of the Corporation's obligation (other than a payment default) is such that more than 60 days are required to cure such breach then the Corporation shall not be in breach hereunder if the Corporation commences performance within such 60 day period and thereafter diligently prosecutes the same to completion; and/or

d. On the date(s) set forth in Section 2, above. Notwithstanding the foregoing, this Agreement may be extended by the City, in its discretion, which shall not be unreasonably withheld, for two (2) additional, successive term(s) of thirty years (30) each, and thereafter one additional eight (8) year period, not to exceed ninety-eight (98) years in total, by notifying the Corporation in writing prior to the expiration of each term;

6. Any amount payable by the Corporation in accordance with this Agreement above shall be adjusted on a pro rata basis for any fiscal year during which the tax abatement is in effect for less than the entirety of such fiscal year, or the tax abatement hereunder is terminated, such that the amount owed will be equal to the product of (a) the per annum amount otherwise due under this Agreement, and (b) the quotient obtained by dividing the number of days during which the tax abatement was operative, by 365;

7. A. The Corporation agrees, warrants and represents that it shall comply with all applicable federal, state and local laws, rules, regulations, ordinances, charters, statutes, codes, orders, policies and procedures relating to the Property;

B. Notwithstanding anything in the Agreement to the contrary, if at any time during the term of this Agreement the Corporation is without an "affordable use agreement" (i.e. a contract with any governmental agency which regulates and verifies that units are being rented to persons or families at or below 60% of the Area Median Income, or other similar agreement), the Corporation shall screen all tenants for initial income eligibility at or below 60% of the Area Median Income and otherwise fulfill the initial eligibility requirements as if a Low Income Housing Tax Credit affordable use agreement was in effect.

8. For so long as this Agreement shall remain in full force and effect, the Corporation agrees (i) to make all financial books and records available to the Tax Abatement Committee and the Board of Representatives of the City or to any person duly, selected, hired or engaged by said Committee and/or Board for the review, inspection, audit and reproduction of any documentation or portion thereof, and (ii) to maintain such books and records in accordance with Generally Accepted Accounting Principles (GAAP). On or before the 31st day of August of every calendar year, the Corporation agrees, warrants and represents that, unless otherwise agreed by the City, it shall provide the City with a comprehensive, annual financial statement prepared by an independent, Certified Public Accountant (CPA), regarding the Property. The Corporation further agrees, warrants and represents that it shall provide the City on or before August 25th of each calendar year with a certification prepared by said independent CPA that the Corporation is substantially in compliance with its obligations set forth in Paragraph 3 of this Agreement. In addition, the Corporation will make available to the Tax Abatement Committee, each calendar year, a copy of any compliance verification form or certification that it has

submitted to (i) any lender, capital provider, tax credit investor or provider or purchaser of tax credits or provider of other form financing to the Project, (ii) any grantor of grant money or such grantor's designated agent or regulating authority or (iii) a regulatory agency for the purpose of attesting that the occupancy of the Below Market Units has been restricted low and moderate income households. The Tax Abatement Committee may, at its discretion, utilize this form of certification in determining that the Corporation is in compliance with this Agreement;

9. In the event this Agreement is terminated as provided herein, all monies due and owing to the City shall be immediately due and payable to the City upon written demand and the abatement of taxes shall terminate on the date calculated in section 5, above;
10. The Tax Abatement Committee may, by majority vote, extend any of the audit report deadlines set forth in this Agreement, if the Corporation reasonably demonstrates the necessity for any such extension(s);
11. This Agreement shall continue in effect throughout its initial term, and any extensions, in the event of sale of the land and/or improvements by the current or subsequent owners so long as the affordability requirements and other provisions of the Agreement are met;
12. Notwithstanding anything contained in this Agreement to the contrary, the rights of the City against the Corporation shall be satisfied solely and exclusively out of the assets consisting of (i) the real property of the Property, and (ii) any income or proceeds arising from the operation or sale of the Property;
13. The Agreement constitutes the entire contract between the parties hereto, and no oral statements or promises and no understanding not embodied in this writing shall be valid or binding. Any modification of this Agreement shall be in writing and executed with the same formality as this Agreement. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement;
14. This Agreement shall be governed by the laws of the State of Connecticut. It is agreed by the parties that if either party commences suit, action or any other legal proceeding against the other, the venue shall be the State Superior Court for the Judicial District of Stamford/Norwalk at Stamford, Connecticut or the Federal District Court in Bridgeport, Connecticut;
15. Any statutory reference contained herein shall include any and all amendments thereto and replacements thereof; and
16. Any notice required under this Agreement shall be given to the respective parties as follows:

To the City of Stamford:

Director of Administration
City of Stamford
888 Washington Boulevard
Stamford, CT 06904-2152

With a copy to:

Director of Legal Affairs and Corporation Counsel
City of Stamford
Office of Legal Affairs
888 Washington Boulevard
Stamford, CT 06904-2152

To the Corporation:

C/O Phoenix Management Corp.
101 Tresser Boulevard
Stamford, CT 06901
Attn: Noel Cooke
203-324-9999 Ext. 114

[REMAINDER OF PAGE LEFT BLANK. SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, we have hereunto set our hands and seals the day and year above written.

Signed, Sealed and Delivered
In the Presence of:

CITY OF STAMFORD


Print: _____

By: _____
David R. Martin, Mayor

Print: _____


**ST. JOHN URBAN DEVELOPMENT
CORPORATION**

Print: _____



Dennis Bogard

By: _____
John Regan, President

Print: _____


Christian Burton

Approved as to Form:

 May 18, 2001
Chris Dellaselva
Asst. Corporation Counsel