

**AGREEMENT FOR PAYMENT IN LIEU OF TAXES (PILOT) BY AND AMONG THE VILLAGE OF VALATIE, TOWN OF KINDERHOOK AND VALATIE HOUSING DEVELOPMENT FUND COMPANY, INC.**

**THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES** (the “PILOT Agreement” or “Agreement”), dated \_\_\_\_\_, 2008, by and among the **VILLAGE OF VALATIE, NEW YORK**, a New York incorporated municipality, having its principal office located at 3053 Main Street, Valatie, New York 12184 (the “Village”) **TOWN OF KINDERHOOK, NEW YORK**, a New York incorporated municipality, having its principal office located at 4 Church Street, Niverville, New York 12130 (the “Town”) and **VALATIE HOUSING DEVELOPMENT FUND COMPANY, INC.**, an Article XI New York private housing finance law corporation and a New York not-for-profit corporation, having its principal office located at 540 Columbia Street, Hudson, New York 12534 (the “HDFC”), which HDFC will hold title to the Property (as hereinafter defined) for the benefit of **VALATIE HOUSING GROUP, L.P.**, a New York limited partnership, having its principal office located at 4549 Main Street, Suite 100, Amherst, New York 14226 (the “Partnership”).

**WHEREAS**, the HDFC is the fee simple owner, and the Partnership is the beneficial and equitable owner of certain real property consisting of 2.4 acres located at Chatham Street, Village of Valatie, Town of Kinderhook, County of Columbia, State of New York, and being a portion of the property known as Section \_\_\_\_\_, Block \_\_\_\_\_, Lot \_\_\_\_\_ (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 senior citizens of low-income; and

**WHEREAS**, the Partnership will develop, own, construct, maintain and operate a housing project of up to thirty-two (32) dwelling units for senior citizens of low income at the Property (sometimes referred to herein as 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 PHFL Section 577, 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 Board of Trustees of the Village of Valatie, New York, by resolution adopted \_\_\_\_\_, 2008, approved and authorized the execution of this Agreement, and

**WHEREAS**, the Council Members of the Town of Kinderhook, New York, by resolution adopted \_\_\_\_\_, 2008, approved and authorized the execution of this Agreement,

**NOW, THEREFORE**, it is agreed as follows:

1. Pursuant to Section 577 of the PHFL, the Village and the Town 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 Chatham Street, Village of Valatie, Town of Kinderhook, 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 Town of Kinderhook ("Town"), the Village of Valatie ("Village") the School District ("School District") or other taxing jurisdiction.

2. This tax exemption will operate for a period of fifteen (15) years from the HDFC's acquisition of the Property, subject to extension for up to twenty-five (25) years upon the reasonable agreement of the parties hereto. 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.

3. So long as the exemption hereunder continues, commencing thirty (30) days after issuance of a certificate of occupancy for the Property, the Partnership shall make annual payments in lieu of taxes ("PILOT") in the amount of Four Hundred Fifty and 00/100 Dollars (\$450.00) per dwelling unit (pro rated for the year in which said certificate of occupancy is issued), said payment to cover all Local and Municipal Taxes owed in connection with the Property and the Project. 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 each calendar year. Payments shall be mailed via First Class mail through the United States Postal Service or personally delivered to the Village of Valatie, 3053 Main Street, Valatie, New York 12184, on behalf of the Village and the Town, or such other address as the Village 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 senior citizens of low income, 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 foreclosure 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 the event the Town commences a proceeding to enforce the provisions of this Agreement, then, in addition to the remedies to which the Town shall be entitled, it shall have the right to award reasonable attorney fees. Notwithstanding the above, the Town may terminate this Agreement, and the tax exemption shall thereupon terminate, pursuant to Section 6 hereof.

6. This Agreement and the exemption granted hereunder shall terminate pursuant to Section 5 above or in an event of default as follows:

(a) Failure to pay in full any payment due under this Agreement within thirty (30) days of mailing of written notice by the Town stating that said payment is past due.

(b) Failure to comply with or perform any provision of this Agreement if such failure continues in whole or in part for more than thirty (30) days after mailing of written notice by the Town of such failure to comply or perform.

In the event of a default hereunder, in addition to the termination of this Agreement and the tax exemption, the Town may exercise any and all rights or remedies permitted by law.

7. 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.

8. This Agreement shall inure to the benefit of and shall be binding upon the Village, the Town, 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.

9. 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.

10. 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.

11. 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.

12. Each of the parties individually represents and warrants that the execution, delivery and performance of this Agreement, (i) has been duly authorized and does not require any other consent or approval, (ii) does not violate any article, by-law or organizational document or 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 indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each party represents that this Agreement shall constitute the legal, valid and binding agreement of the parties enforceable in accordance with its terms.

*Remainder of page intentionally left blank.*

IN WITNESS WHEREOF, the Village, the Town, 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 above-written.

DATED: \_\_\_\_\_, 2008

VILLAGE OF VALATIE, NEW YORK

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

Name: Gary D. Strevell

Title: Mayor

DATED: \_\_\_\_\_, 2008

TOWN OF KINDERHOOK, NEW YORK

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

Name: Douglas K. McGivney

Title: Supervisor

DATED: \_\_\_\_\_, 2008

VALATIE HOUSING DEVELOPMENT  
FUND COMPANY, INC.

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

Name: Tina Sharpe

Title: President

DATED: \_\_\_\_\_, 2008

VALATIE HOUSING GROUP, L.P.

By: 3D Development Group L.L.C.,  
its Managing General Partner

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

Name: Bruce Levine

Title: Managing Member

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

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2008, before me personally appeared Gary D. Strevell, 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 2008, before me personally appeared Douglas K. McGivney, 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 2008, before me personally appeared Tina Sharpe, 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 she executed the same in her capacity, and that by her 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 2008, before me personally appeared Bruce Levine, 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