



Amherst Town Board

Special Meeting of the Town Board

Minutes

5583 Main Street
Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Tuesday, August 17, 2021

4:00 PM

Amherst Municipal Building

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL:

4:00 PM Meeting called to order on August 17, 2021 at Amherst Municipal Building, 5583 Main Street, Williamsville, NY.

Attendee Name	Organization	Title	Status	Arrived
Brian J. Kulpa	Town of Amherst	Supervisor	Present	
Jacqueline Berger	Town of Amherst	Deputy Supervisor	Absent	
Deborah Bruch Bucki	Town of Amherst	Councilmember	Present	
Shawn Lavin	Town of Amherst	Councilmember	Present	
Michael Szukala	Town of Amherst	Councilmember	Present	
Francina J. Spoth	Town of Amherst	Town Clerk	Present	
Timothy Koller	Town of Amherst	Deputy Town Clerk	Present	
Stanley J. Sliwa	Town of Amherst	Town Attorney	Present	
Laurie Stillwell	Town of Amherst	Director of Community Development	Present	
David Marrano	Town of Amherst	Town Assessor	Present	
Angela Rossi	Town of Amherst	Director of Economic Development	Present	

III. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

MJ Peterson Related Affordable PILOTS.

Presentation Order:

- Introduction to Special Meeting - Amherst Supervisor Brian Kulpa
- Overview of the Affordable Housing Rehab Projects - Deep Katdare, Related Affordable
 - o Oxford Village

- Princeton Court
- Parkside Village
- Brewster Mews
- NYS Homes and Community Renewal Financing - Leonard Skrill, NYSHCR
- Amherst's Additional Project Requests & Status - Laurie Stillwell, Amherst Community Development
- Review of PILOT Agreement Structure - Stan Sliwa, Amherst Town Attorney
- Financial Terms of the PILOTs - Dave Marrano, Amherst Town Assessor

1. Resolution 2021-723

Oxford Amherst Preservation HDFC - PILOT - CRS #2818

AGENDA ITEM - AUGUST 23rd, 2021

TO: Town Board

**FROM: Stanley J. Sliwa, Esq.
Town Attorney**

DATE: August 18, 2021

**RE: Oxford Amherst Preservation Housing Development
Fund Company, Inc. and Oxford Amherst Preservation, L.P.
Request for a PILOT Agreement pursuant to Section 577 of
Article 11 of Private Housing Finance Law - CRS #2818**

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Oxford Amherst Preservation Housing Development Fund Company, Inc. ("HDFC"), a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 and Oxford Amherst Preservation, L.P. ("Partnership"), a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 316 affordable living apartments ("Project") located on Allenhurst Road, Amherst, New York 14226, bearing SBL #67.71-4-22 (the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 316 affordable living apartments located in the Town of Amherst, Erie County, New York, located on Allenhurst Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the 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 Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; 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, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Amherst School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District and upon the execution of such an agreement, the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein; and

WHEREAS, the HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office and a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Oxford Amherst Preservation Housing Development Fund Company, Inc. and Oxford Amherst Preservation, LP, the Town of Amherst, Erie County and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;
2. The PILOT Agreement is subject to review and approval by the Amherst Central School District; and
3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg

c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021, w/attachment**)
David Marrano, Town Assessor (w/attachment)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/23/2021 3:00 PM
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Bucki, Lavin, Szukala	
ABSENT:	Berger	

2. Resolution 2021-724**Princeton Amherst Preservation HDFC - PILOT Agreement - CRS
#2819****AGENDA ITEM - AUGUST 23rd, 2021**

TO: Town Board

FROM: Stanley J. Sliwa, Esq., Town Attorney

DATE: August 18, 2021

RE: Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP - Request for a PILOT Agreement Pursuant to Section 577 of Article 11 of Private Housing Finance Law - CRS #2819

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Princeton Amherst Preservation Housing Development Fund Company, Inc., ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228, and Princeton Amherst Preservation, L.P., ("Partnership") a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 304 affordable living apartments ("Project") located at 165 Princeton Road, Amherst, New York, 14226, bearing SBL #79.24-1-1 (the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 304 affordable living apartments located in the Town of Amherst, Erie County, New York, located at 165 Princeton Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the 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 Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; 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, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Amherst School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type of agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District and upon the execution of such an agreement, the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office and a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;
2. The PILOT Agreement is subject to review and approval by the Amherst Central School District; and
3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg

c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021**, w/attachment)
David Marrano, Town Assessor (w/attachment)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare

(Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/23/2021 3:00 PM
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Bucki, Lavin, Szukala	
ABSENT:	Berger	

3. Resolution 2021-725**Brewster Amherst Preservation HDFC - PILOT - CRS #2820****AGENDA ITEM - AUGUST 23rd, 2021**

TO: Town Board

FROM: Stanley J. Sliwa, Esq.
Town Attorney

DATE: August 18, 2021

RE: Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2820

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Brewster Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228, and Brewster Amherst Preservation, L.P., ("Partnership"), a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that

the Town of Amherst Town Board enter into a PILOT Agreement for 216 affordable living apartments ("Project") located at 910-937 Robin Road, Amherst, New York 14221, bearing SBL #41.10-3-18 and 501-511 Robin and Little Robin Road, Amherst, New York 14221, bearing SBL #41.03-1-69 (collectively, the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 216 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the 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 Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; 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, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Williamsville Central School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT

Agreement between Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, LP, the Town of Amherst, Erie County, and the Williamsville Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;
2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and
3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lbg

Attachment

c: Kathy Cooper, Deputy Town Clerk
(Agenda Item : August 23rd, 2021, w/attachment)
 David Marrano, Town Assessor (w/attachment)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Lavin. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/23/2021 3:00 PM
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Bucki, Lavin, Szukala	
ABSENT:	Berger	

4. Resolution 2021-726

Parkside Amherst Preservation HDFC - PILOT - CRS #2821

AGENDA ITEM - AUGUST 23rd, 2021

TO: Town Board

**FROM: Stanley J. Sliwa, Esq.
Town Attorney**

DATE: August 18, 2021

**RE: Parkside Amherst Preservation Housing Development Fund
Company, Inc. and Parkside Amherst Preservation, L.P. - Request
for a PILOT Agreement pursuant to Section 577 of Article 11 of
Private Housing Fund - CRS #2821**

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Parkside Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Parkside Amherst Preservation, L.P. ("Partnership"), a New York Limited Partnership with an address of 200 John James Boulevard Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 180 affordable living apartments ("Project") located at 302-332 Evans Road, Amherst, New York, 14221, bearing SBL #41.03-1-68 (the "Property"); 825-862 Robin Road, Amherst, New York, 14221, bearing SBL #41.11-3-1; 101-128 Robin Road, Amherst, New York, 14221, bearing SBL #41.03-1-60; 301-326 Robin Road, Amherst, NY 14221, bearing SBL #41.03-1-60; and 801-824 Robin Road, Amherst, New York 14221, bearing SBL #41-11-3-5 (collectively, the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 180 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the 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 Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; 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, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Williamsville Central School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;
2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and
3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg

Attachment

c: Kathy Cooper, Deputy Town Clerk
(**Agenda Item : August 23rd, 2021, w/attachment**)
David Marrano, Town Assessor (w/attachment)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Bucki. A motion was then made by Deputy Supervisor Berger to amend, seconded by Councilmember Lavin and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/23/2021 3:00 PM
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Bucki, Lavin, Szukala	
ABSENT:	Berger	

IV. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Councilmember Bucki and unanimously approved 4-0. The Town Board Special Meeting of August 17, 2021 was adjourned at 5:03 PM.



Amherst Town Board

5583 Main Street
 Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
 Town Clerk

Meeting: 08/17/21 04:00 PM
 Department: Town Attorney
 Initiated by: **Stanley J. Sliwa**
 Co-Sponsored by:

DOC ID: 24650

RESOLUTION 2021-723

ADJOURNED

Oxford Amherst Preservation HDFC - PILOT - CRS #2818

AGENDA ITEM - AUGUST 23rd, 2021

TO: Town Board

FROM: Stanley J. Sliwa, Esq.
 Town Attorney

DATE: August 18, 2021

RE: Oxford Amherst Preservation Housing Development
 Fund Company, Inc. and Oxford Amherst Preservation, L.P.
 Request for a PILOT Agreement pursuant to Section 577 of
 Article 11 of Private Housing Finance Law - CRS #2818

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Oxford Amherst Preservation Housing Development Fund Company, Inc. ("HDFC"), a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 and Oxford Amherst Preservation, L.P. ("Partnership"), a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 316 affordable living apartments ("Project") located on Allenhurst Road, Amherst, New York 14226, bearing SBL #67.71-4-22 (the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 316 affordable living apartments located in the Town of Amherst, Erie County, New York, located on Allenhurst Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the 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 Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain

consistent throughout the duration of this Agreement; 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, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Amherst School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District and upon the execution of such an agreement, the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein; and

WHEREAS, the HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office and a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Oxford Amherst Preservation Housing Development Fund Company, Inc. and Oxford Amherst Preservation, LP, the Town of Amherst, Erie County and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;
2. The PILOT Agreement is subject to review and approval by the Amherst Central

School District; and

3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lbg

c: Kathy Cooper, Deputy Town Clerk
(Agenda Item : August 23rd, 2021, w/attachment)
 David Marrano, Town Assessor (w/attachment)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

PILOT

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/23/2021 3:00 PM
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Bucki, Lavin, Szukala	
ABSENT:	Berger	

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

**OXFORD AMHERST PRESERVATION
HOUSING DEVELOPMENT FUND COMPANY, INC.
AND
OXFORD AMHERST PRESERVATION, L.P.**

And

**TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
AMHERST CENTRAL SCHOOL DISTRICT, NEW YORK**

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this “*Agreement*”) is made and entered into as of _____, 2021 by and between **OXFORD AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of c/o Related Companies, 30 Hudson Yards, 72nd Floor, New York, New York 10001 (the “*HDFC*”), and **OXFORD AMHERST PRESERVATION, L.P.**, a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the “*Partnership*”), the **TOWN OF AMHERST, NEW YORK**, a municipal corporation with an address of 5583 Main Street, Williamsville, New York 14221 (the “*Town*”), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the “*County*”) and the **AMHERST CENTRAL SCHOOL DISTRICT**, a school district with an address of 55 Kings Highway, Amherst, NY 14226 (the “*School District*”). The HDFC, Partnership, Town, County, and School District are each a “*Party*” and are collectively referred to herein as the “*Parties*”.

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 316 affordable residential apartments (the “*Project*”) located in the Town of Amherst, Erie County, New York, located at 42 Oxford Ave, Amherst, NY 14226 (Tax Map No. 67.71-4-22) (the “*Property*”); and

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

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

WHEREAS, the Project is intended to be affordable to low income households, and affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; and

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

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, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District, and upon the execution of such an agreement the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the Parties agree as follows:

1. **Tax Exemption.** The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "*Local and Municipal Taxes*" shall mean any and all real estate taxes levied by

the County, the Town, the School District (collectively, the "*Taxing Jurisdictions*"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. **Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes.** So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("*PILOT Payments*") to the Town in the amounts set forth in *Schedule "A"*, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The PILOT Payments shall be required to be made to the Taxing Jurisdictions following the March 1, 2022 tax status date commencing with the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District. The Parties agree that no refund of any real property taxes levied upon the Property prior to the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. **Requirements of the Partnership and the HDFC.**

a. The tax exemption provided by this Agreement will continue for a term of fifteen (15) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property for persons of low income in conformance with Article XI of the PHFL.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, general certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. **Taxing Authorities and Amounts.**

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT Payment to the Town in the amounts as stated in *Schedule "A"*, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the fifteen (15) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each such PILOT Payment to the Town shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payments shall be delivered to the Town of Amherst, c/o Town Clerk/Tax Receiver, 5583 Main Street, Williamsville, New York 14221, or such other place as may be designated from time to time by the Town. Each such PILOT Payment to the County shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to County of Erie, c/o Director of Real Property Tax Services, The Edward A. Rath County Office Building, Room 100, 95 Franklin Street, Buffalo, New York 14202, or such other place as may be designated from time to time by the County. Each such PILOT Payment to the School District shall be made on or before September 30 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to the Amherst Central School District, Attention Assistant Superintendent of Business & Finance, 55 Kings Highway, Amherst, NY 14226.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

d. Notwithstanding the Partnership's and the HDFC's obligations under this Agreement, and the Town's obligations as so described within this Agreement, should the Partnership and the HDFC enter into an educational contribution or other similar type agreement whereby the Partnership and the HDFC provide financial support directly to the School District (the "Education Contribution"), upon (i) submission of such agreement to the Town, and (ii) written notice of same to be provided to the Town specifically describing the terms and the amount of the Education Contribution, the PILOT Payment obligations thereafter to be made to the School District under this Agreement and Schedule A shall be reduced by an amount equal to the Education Contribution to be provided pursuant to such educational contribution agreement or other similar type agreement, provided that such reduction shall not exceed the School District's respective share of the PILOT Payment as set forth in Schedule A. Such reduction shall become effective upon the Town's next taxable status date after notice of at least (30) days is provided by the School District that an agreement for the Education Contribution has been entered into.

5. **Effect of Fulfillment of the Requirement.** Once having paid the amounts required by this Agreement when due, the Partnership and the HDFC shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments,

special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. **Defaults in Payment in Lieu of Taxes.** In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

7. **Events of Default and Termination of Tax Exemption.**

a. An event of default ("*Event of Default*") shall be defined as (1) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership's and/or HDFC's failure to provide any material notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town except as otherwise set forth in Section 15 below.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of written notice from the Town regarding such default to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney's fees and related costs incurred in securing adherence to the terms of this Agreement.

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

f. Upon an Event of Default, so long as the New York State Housing Finance Agency ("HFA"), its nominee or designee (an "HFA Party") holds a mortgage on the Property, the Town agrees to deliver a copy the written notice set forth in paragraph (b) above to HFA and HFA will have the right, but not the obligation, to cure such violation in the same timeframe given to the HDFC and the Partnership described above.

g. The Town hereby agrees that any cure of any Event of Default hereunder made or tendered by Wells Fargo Affordable Housing Community Development Corporation or its affiliate, as the Investor Limited Partner of the Partnership (the "Investor Limited Partner") shall be deemed to be cured by the Partnership, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Company. The Investor Limited Partner shall not be obligated to cure any Event of Default.

8. **Waiver.** No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. **Modification.** Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. **Notices.** All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town: Town Attorney's Office
 Attn: Stanley J. Sliwa, Esq.
 Town of Amherst
 5583 Main Street
 Williamsville, NY 14221

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Assessor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

If to the HDFC
or the Partnership:

Oxford Amherst Preservation, L.P.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

With a copy to:

c/o Related Companies
30 Hudson Yards, 72nd Floor
New York, New York 10001
Attention: Matthew Finkle

With a copy to:

New York State Housing Finance Agency
641 Lexington Avenue
New York, New York 10022

With a copy to:

Wells Fargo Affordable Housing Community Development
Corporation
MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288
Attn: Director of Tax Credit Asset Management

If to Erie County:

Erie County Attorney's Office
95 Franklin Street
Buffalo, New York 14202

If to the School
District:

Amherst Central School District
55 Kings Highway, Amherst, NY 14226

12. **Pay Equity.** The Partnership and the HDFC shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The Partnership and HDFC shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Partnership and the HDFC, their offices and facilities, for the purpose

of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to conforming the HDFC's and the Partnership's compliance with Erie County Executive Order 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014) may constitute grounds for the immediate termination of this Agreement and may constitute grounds for determining that the Partnership and/or HDFC are not qualified to participate in future Town contracts.

13. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, 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 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.

14. **Amendments.** This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. **Assignments.**

- a. This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town; provided, however, that any transfer between existing holders of ownership interests in the Partnership or the HDFC shall not require prior written consent of the Town even if such transfer would be in excess of fifty percent (50%) of the equity voting interests in the HDFC and/or Partnership.. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership Company from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment); (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or

the Partnership, including reasonable attorneys' fees, and shall contain such terms and conditions as reasonably required by the Town and its counsel.

- b. Notwithstanding anything to the contrary contained in this Section 15 or elsewhere in this agreement, the prohibition on Transfer described above shall not be construed to prohibit the transfer of title to the Project or any portion thereof to an HFA Party as a result of a foreclosure or the acceptance of a deed in lieu of foreclosure or comparable conversion of the loan held by HFA. During any period of time that an HFA Party owns the Project or if any subsequent owner acquires the Project from a HFA Party, neither HFA, nor such HFA Party, nor such subsequent owner will be liable or obligated for the breach or default of any obligation of any prior owner (including the Partnership and/or HDfC) under this Agreement, including, but not limited to, any payment or indemnification obligation, in which case the owner of the Project at the time the default occurred shall remain liable for any and all damages occasioned thereby even after such entity ceases to be the owner (and, in such event, any party seeking to collect such damages shall have no recourse and shall have no right to levy against, or otherwise collect on, any judgment from the Project), provided that such defaulting owner shall bear no liability under this Agreement for any damages occasioned by any subsequent default under this Agreement occurring after such entity ceases to be the owner of the Project.

16. **Applicable Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. **Section Headings Not Controlling.** The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. **Severability.** If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

19. **Entire agreement.** This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. **Authority To Execute.** Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

{Rest of Page Left Intentionally Blank}

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDfC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE

TOWN OF AMHERST

BY: _____
Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

BY: _____
Brian J. Kulpa, Supervisor

Date: _____

Date: _____

Approved as to content
for Erie County:

Approved as to content for
the Town of Amherst:

BY: _____
Daniel Castle, Interim Commissioner
Department of Planning
& Economic Development

BY: _____
David Marrano, Assessor

Date: _____

Date: _____

Approved as to form for
Erie County:

Approved as to form for the
Town of Amherst:

BY: _____
Kristen M. Walder, Esq.
Assistant County Attorney

BY: _____
Stanley J. Sliwa, Esq.,
Town Attorney

Date: _____

Date: _____

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDfC - PILOT - CRS #2818)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

AMHERST CENTRAL SCHOOL DISTRICT

By: _____

Name: _____

Title: _____

Date: _____

**OXFORD AMHERST PRESERVATION HOUSING
DEVELOPMENT FUND COMPANY, INC.**, a New York
not-for-profit corporation

By: _____

Matthew Finkle, Vice President

Date: _____

OXFORD AMHERST PRESERVATION, L.P., a
New York limited partnership

By: Oxford Amherst MJP GP, LLC, a New York
limited liability company, its co-general partner

By: _____

Victor L. Peterson III, President

Date: _____

By: Oxford Amherst Related GP, LLC, a New York
limited liability company, its co-general partner

By: _____

Matthew Finkle, Vice President

Date: _____

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDFC - PILOT - CRS #2818)

SCHEDULE A
OXFORD PILOT PAYMENTS

Tax Year	Total PILOT	Town	School	County
1	237,000	23,700	165,900	47,400
2	242,925	24,293	170,048	48,585
3	248,938	24,900	174,239	49,800
4	255,223	25,522	178,656	51,045
5	261,604	26,160	183,123	52,321
6	268,144	26,814	187,701	53,629
7	274,847	27,485	192,393	54,969
8	281,719	28,172	197,203	56,344
9	288,761	28,876	202,133	57,752
10	295,981	29,598	207,186	59,196
11	303,380	30,338	212,366	60,676
12	310,965	31,096	217,675	62,193
13	318,739	31,874	223,117	63,748
14	326,707	32,671	228,635	65,341
15	334,875	33,487	234,412	66,975
Total	4,249,867	424,987	2,974,907	849,973

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDPC - PILOT - CRS #2818)

SCHEDULE B

ERIE COUNTY EQUAL PAY CERTIFICATE

Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). The average compensation for female employees is not consistently below the average compensation for male employees, taking into account mitigating factors. We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Federal Equal Pay Law.

Signature

Verification

STATE OF _____)

COUNTY OF _____) SS:

A) _____, being duly sworn, states he or she is the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

B) _____, being duly sworn, states that he or she is the _____ [title of corporate office/position] of _____ [name of corporation], the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this _____

Day of _____, 20____

Attachment: Oxford.PILOT (RES-2021-723 : Oxford Amherst Preservation HDPC - PILOT - CRS #2818)



Amherst Town Board

5583 Main Street
 Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
 Town Clerk

Meeting: 08/17/21 04:00 PM
 Department: Town Attorney
 Initiated by: **Stanley J. Sliwa**
 Co-Sponsored by:

DOC ID: 24651

RESOLUTION 2021-724

ADJOURNED

Princeton Amherst Preservation HDFC - PILOT Agreement - CRS #2819

AGENDA ITEM - AUGUST 23rd, 2021

TO: Town Board

FROM: Stanley J. Sliwa, Esq., Town Attorney

DATE: August 18, 2021

RE: Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP - Request for a PILOT Agreement Pursuant to Section 577 of Article 11 of Private Housing Finance Law - CRS #2819

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Princeton Amherst Preservation Housing Development Fund Company, Inc., ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228, and Princeton Amherst Preservation, L.P., ("Partnership") a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 304 affordable living apartments ("Project") located at 165 Princeton Road, Amherst, New York, 14226, bearing SBL #79.24-1-1 (the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 304 affordable living apartments located in the Town of Amherst, Erie County, New York, located at 165 Princeton Road; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the 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 Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain

consistent throughout the duration of this Agreement; 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, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Amherst School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type of agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District and upon the execution of such an agreement, the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office and a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Amherst Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Princeton Amherst Preservation Housing Development Fund Company, Inc. and Princeton Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;
2. The PILOT Agreement is subject to review and approval by the Amherst Central School District; and

3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lbg

c: Kathy Cooper, Deputy Town Clerk
(Agenda Item : August 23rd, 2021, w/attachment)
 David Marrano, Town Assessor (w/attachment)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

PILOT

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/23/2021 3:00 PM
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Bucki, Lavin, Szukala	
ABSENT:	Berger	

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

**PRINCETON AMHERST PRESERVATION HOUSING
DEVELOPMENT FUND COMPANY, INC.**

AND

PRINCETON AMHERST PRESERVATION, L.P.

And

**TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
AMHERST CENTRAL SCHOOL DISTRICT, NEW YORK**

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this “*Agreement*”) is made and entered into as of _____, 2021 by and between **PRINCETON AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of c/o Related Companies, 30 Hudson Yards, 72nd Floor, New York, New York 10001 (the “*HDFC*”), and **PRINCETON AMHERST PRESERVATION, L.P.**, a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the “*Partnership*”), the **TOWN OF AMHERST**, a municipal corporation with an address of 5583 Main Street, Williamsville, New York 14221 (the “*Town*”), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the “*County*”) and the **AMHERST CENTRAL SCHOOL DISTRICT**, a school district with an address of 55 Kings Highway, Amherst, NY 14226 (the “*School District*”). The HDFC, Partnership, Town, County, and School District are each a “*Party*” and are collectively referred to herein as the “*Parties*”.

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 304 affordable residential apartments (the “*Project*”) located in the Town of Amherst, Erie County, New York, located at 165 Princeton Road (Tax Map No. 79.24-1-1) (the “*Property*”); and

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

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

WHEREAS, the Project is intended to be affordable to low income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; 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, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District; and

WHEREAS, the Town recognizes that the Partnership and the HDFC may enter into an educational contribution agreement or similar type of agreement with the School District whereby the Partnership and the HDFC provide financial support directly to the School District, and upon the execution of such an agreement the Town, per the direction of the School District, agrees to reduce the payments in lieu of property taxes to be otherwise provided to the School District under this Agreement as so provided for herein.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the Parties agree as follows:

1. **Tax Exemption.** The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. *"Local and Municipal Taxes"* shall mean any and all real estate taxes levied by

the County, the Town, the School District (collectively, the "***Taxing Jurisdictions***"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes. So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("***PILOT Payments***") to the Town in the amounts set forth in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The PILOT Payments shall be required to be made to the Taxing Jurisdictions following the March 1, 2022 tax status date commencing with the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District. The Parties agree that no refund of any real property taxes levied upon the Property prior to the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. Requirements of the Partnership and the HDFC.

a. The tax exemption provided by this Agreement will continue for a term of fifteen (15) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property for persons of low income in conformance with Article XI of the PHFL.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, general certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. Taxing Authorities and Amounts.

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT Payment to the Town in the amounts as stated in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the fifteen (15) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each such PILOT Payment to the Town shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payments shall be delivered to the Town of Amherst, c/o Town Clerk/Tax Receiver, 5583 Main Street, Williamsville, New York 14221, or such other place as may be designated from time to time by the Town. Each such PILOT Payment to the County shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to County of Erie, c/o Director of Real Property Tax Services, The Edward A. Rath County Office Building, Room 100, 95 Franklin Street, Buffalo, New York 14202, or such other place as may be designated from time to time by the County. Each such PILOT Payment to the School District shall be made on or before September 30 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to the Amherst Central School District, Attention Assistant Superintendent of Business & Finance, 55 Kings Highway, Amherst, NY 14226.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

d. Notwithstanding the Partnership's and the HDFC's obligations under this Agreement, and the Town's obligations as so described within this Agreement, should the Partnership and the HDFC enter into an educational contribution or other similar type agreement whereby the Partnership and the HDFC provide financial support directly to the School District (the "Education Contribution"), upon (i) submission of such agreement to the Town, and (ii) written notice of same to be provided to the Town specifically describing the terms and the amount of the Education Contribution, the PILOT Payment obligations thereafter to be made to the School District under this Agreement and Schedule A shall be reduced by an amount equal to the Education Contribution to be provided pursuant to such educational contribution or other similar type agreement, provided that such reduction shall not exceed the School District's respective share of the PILOT Payment as set forth in Schedule A. Such reduction shall become effective upon the Town's next taxable status date after notice of at least (30) days is provided by the School District that an agreement for the Education Contribution has been entered into.

5. **Effect of Fulfillment of the Requirement.** Once having paid the amounts required by this Agreement when due, the Partnership and the HDFC shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments,

special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. **Defaults in Payment in Lieu of Taxes.** In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

7. **Events of Default and Termination of Tax Exemption.**

a. An event of default ("*Event of Default*") shall be defined as (1) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership's and/or HDFC's failure to provide any material notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town except as otherwise set forth in Section 15 below.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of written notice from the Town regarding such default to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney's fees and related costs incurred in securing adherence to the terms of this Agreement.

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

f. Upon an Event of Default, so long as the New York State Housing Finance Agency ("HFA"), its nominee or designee (an "HFA Party") holds a mortgage on the Property, the Town agrees to deliver a copy the written notice set forth in paragraph (b) above to HFA and HFA will have the right, but not the obligation, to cure such violation in the same timeframe given to the HDFC and the Partnership described above.

g. The Town hereby agrees that any cure of any Event of Default hereunder made or tendered by Wells Fargo Affordable Housing Community Development Corporation or its affiliate, as the Investor Limited Partner of the Partnership (the "Investor Limited Partner") shall be deemed to be cured by the Partnership, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Company. The Investor Limited Partner shall not be obligated to cure any Event of Default.

8. **Waiver.** No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. **Modification.** Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. **Notices.** All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town:	Town Attorney's Office Attn: Stanley J. Sliwa, Esq. Town of Amherst 5583 Main Street Williamsville, NY 14221
-----------------	--

Town Supervisor
 Town of Amherst
 5583 Main Street
 Williamsville, NY 14221

Town Assessor
 Town of Amherst
 5583 Main Street
 Williamsville, NY 14221

If to the HDFC
 or the Partnership: Princeton Amherst Preservation, L.P.
 200 John James Audubon Parkway
 Suite 300
 Amherst, NY 14228

With a copy to: c/o Related Companies
 30 Hudson Yards, 72nd Floor
 New York, New York 10001
 Attention: Matthew Finkle

With a copy to: New York State Housing Finance Agency
 641 Lexington Avenue
 New York, New York 10022

With a copy to: Wells Fargo Affordable Housing Community Development
 Corporation
 MAC D1053-170
 301 South College Street, 17th Floor
 Charlotte, NC 28288
 Attn: Director of Tax Credit Asset Management

If to Erie County: Erie County Attorney's Office
 95 Franklin Street
 Buffalo, New York 14202

If to the School
 District: Amherst Central School District
 55 Kings Highway, Amherst, NY 14226

12. **Pay Equity.** The Partnership and the HDFC shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The Partnership and HDFC shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Partnership and the HDFC, their offices and facilities, for the purpose

of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to conforming the HDFC's and the Partnership's compliance with Erie County Executive Order 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014) may constitute grounds for the immediate termination of this Agreement and may constitute grounds for determining that the Partnership and/or HDFC are not qualified to participate in future Town contracts.

13. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, 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 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.

14. **Amendments.** This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. **Assignments.**

- a. This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town; provided, however, that any transfer between existing holders of ownership interests in the Partnership or the HDFC shall not require prior written consent of the Town even if such transfer would be in excess of fifty percent (50%) of the equity voting interests in the HDFC and/or Partnership.. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment; (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to any or all of the items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or the Partnership, including reasonable attorneys' fees, and shall

contain such terms and conditions as reasonably required by the Town and its counsel.

- b. Notwithstanding anything to the contrary contained in this Section 15 or elsewhere in this agreement, the prohibition on Transfer described above shall not be construed to prohibit the transfer of title to the Project or any portion thereof to an HFA Party as a result of a foreclosure or the acceptance of a deed in lieu of foreclosure or comparable conversion of the loan held by HFA. During any period of time that an HFA Party owns the Project or if any subsequent owner acquires the Project from a HFA Party, neither HFA, nor such HFA Party, nor such subsequent owner will be liable or obligated for the breach or default of any obligation of any prior owner (including the Partnership and/or HDFC) under this Agreement, including, but not limited to, any payment or indemnification obligation, in which case the owner of the Project at the time the default occurred shall remain liable for any and all damages occasioned thereby even after such entity ceases to be the owner (and, in such event, any party seeking to collect such damages shall have no recourse and shall have no right to levy against, or otherwise collect on, any judgment from the Project), provided that such defaulting owner shall bear no liability under this Agreement for any damages occasioned by any subsequent default under this Agreement occurring after such entity ceases to be the owner of the Project.

16. **Applicable Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. **Section Headings Not Controlling.** The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. **Severability.** If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

19. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. **Authority To Execute.** Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

{Rest of Page Left Intentionally Blank}

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDfC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE

TOWN OF AMHERST

BY: _____
Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

BY: _____
Brian J. Kulpa, Supervisor

Date: _____

Date: _____

Approved as to content
for Erie County:

Approved as to content for
the Town of Amherst:

BY: _____
Daniel Castle, Interim Commissioner
Department of Planning
& Economic Development

BY: _____
David Marrano, Assessor

Date: _____

Date: _____

Approved as to form for
Erie County:

Approved as to form for the
Town of Amherst:

BY: _____
Kristen M. Walder, Esq.
Assistant County Attorney

BY: _____
Stanley J. Sliwa, Esq.,
Town Attorney

Date: _____

Date: _____

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDfC - PILOT - CRS #2819)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

AMHERST CENTRAL SCHOOL DISTRICT

By: _____

Name:

Title:

Date: _____

**PRINCETON AMHERST PRESERVATION HOUSING
DEVELOPMENT FUND COMPANY, INC.**, a New York
not-for-profit corporation

By: _____

Matthew Finkle, Vice President

Date: _____

PRINCETON AMHERST PRESERVATION, L.P.,
a New York limited partnership

By: Princeton Amherst MJP GP, LLC, a New York
limited liability company, its co-general partner

By: _____

Victor L. Peterson III, President

Date: _____

By: Princeton Amherst Related GP, LLC, a New York
limited liability company, its co-general partner

By: _____

Matthew Finkle, Vice President

Date: _____

Attachment: Princeton.PILOT (RES-2021-724 : Princeton Amherst Preservation HDFC - PILOT - CRS #2819)

SCHEDULE A

PRINCETON PILOT PAYMENTS

Tax Year	Total PILOT	Town	School	County
1	159,400	7,970	111,580	39,850
2	163,385	8,169	114,370	40,846
3	167,470	8,373	117,229	41,867
4	171,656	8,583	120,159	42,914
5	175,948	8,797	123,163	43,987
6	180,346	9,017	126,243	45,087
7	184,855	9,243	129,399	46,214
8	189,477	9,474	132,634	47,369
9	194,213	9,711	135,949	48,553
10	199,069	9,953	139,348	49,767
11	204,045	10,202	142,832	51,011
12	209,147	10,457	146,403	52,287
13	214,375	10,719	150,063	53,594
14	219,735	10,987	153,814	54,934
15	225,228	11,261	157,660	56,307
Total	2,858,349	142,917	2,000,844	714,587

SCHEDULE B

ERIE COUNTY EQUAL PAY CERTIFICATE

Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). The average compensation for female employees is not consistently below the average compensation for male employees, taking into account mitigating factors. We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Federal Equal Pay Law.

Signature

Verification

STATE OF _____)

COUNTY OF _____) SS:

A) _____, being duly sworn, states he or she is the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

B) _____, being duly sworn, states that he or she is the _____ [title of corporate office/position] of _____ [name of corporation], the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this _____

Day of _____, 20____



Amherst Town Board

5583 Main Street
 Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
 Town Clerk

Meeting: 08/17/21 04:00 PM
 Department: Town Attorney
 Initiated by: **Stanley J. Sliwa**
 Co-Sponsored by:

DOC ID: 24652

RESOLUTION 2021-725

ADJOURNED

Brewster Amherst Preservation HDFC - PILOT - CRS #2820

AGENDA ITEM - AUGUST 23rd, 2021

TO: Town Board

FROM: Stanley J. Sliwa, Esq.
 Town Attorney

DATE: August 18, 2021

RE: Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2820

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Brewster Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228, and Brewster Amherst Preservation, L.P., ("Partnership"), a New York Limited Partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 216 affordable living apartments ("Project") located at 910-937 Robin Road, Amherst, New York 14221, bearing SBL #41.10-3-18 and 501-511 Robin and Little Robin Road, Amherst, New York 14221, bearing SBL #41.03-1-69 (collectively, the "Property"); and

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 216 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article 11 of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the 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 Project is intended to be **affordable to low** income households, and

affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; 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, it is the intention of the parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Williamsville Central School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Brewster Amherst Preservation Housing Development Fund Company, Inc. and Brewster Amherst Preservation, LP, the Town of Amherst, Erie County, and the Williamsville Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;
2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and
3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg

Attachment

c: Kathy Cooper, Deputy Town Clerk
(Agenda Item : August 23rd, 2021, w/attachment)
 David Marrano, Town Assessor (w/attachment)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Lavin. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

PILOT

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/23/2021 3:00 PM
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Bucki, Lavin, Szukala	
ABSENT:	Berger	

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

**BREWSTER AMHERST PRESERVATION HOUSING
DEVELOPMENT FUND COMPANY, INC.,
AND
BREWSTER AMHERST PRESERVATION, L.P.,**

and

**THE TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK
WILLIAMSVILLE CENTRAL SCHOOL DISTRICT, NEW YORK**

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this “*Agreement*”) is made and entered into as of _____, 2021 by and between **BREWSTER AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of c/o Related Companies, 30 Hudson Yards, 72nd Floor, New York, New York 10001 (the “*HDFC*”), and **BREWSTER AMHERST PRESERVATION, L.P.**, a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the “*Partnership*”), and the **TOWN OF AMHERST, NEW YORK**, a municipal corporation with an address of 5583 Main Street, Williamsville, Erie County, New York 14221 (the “*Town*”), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the “*County*”) and the **WILLIAMSVILLE CENTRAL SCHOOL DISTRICT**, a school district with an address of 105 Casey Road, East Amherst, New York 14051 (the “*School District*”). The HDFC, Partnership, Town, County, and School District are each a “*Party*” and are collectively referred to herein as the “*Parties*”.

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of approximately 216 affordable residential apartments (the “*Project*”) located in the Town of Amherst, Erie County, New York, at 910-937 Robin Road (Tax Map No. 41.10-3-18) and 501-511 Robin and Little Robin Road (Tax Map No. 41.03-1-69) (collectively, the “*Property*”); and

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

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

WHEREAS, the Project is intended to be affordable to low income households, and affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; 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, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the parties agree as follows:

1. **Tax Exemption.** The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "**Local and Municipal Taxes**" shall mean any and all real estate taxes levied by the County, the Town, the School District (collectively, the "**Taxing Jurisdictions**"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's

or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes. So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("**PILOT Payments**") to the Town in the amounts set forth in **Schedule "A"**, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The PILOT Payments shall be required to be made to the Taxing Jurisdictions following the March 1, 2022 tax status date commencing with the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District. The Parties agree that no refund of any real property taxes levied upon the Property prior to the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. Requirements of the Partnership and the HDFC.

a. The tax exemption provided by this Agreement will continue for a term of fifteen (15) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property for persons of low income in conformance with Article XI of the PHFL.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, general certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. Taxing Authority and Amounts.

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT Payment to the Town in the amounts as stated in **Schedule "A"**, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments,

special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the fifteen (15) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each such PILOT Payment to the Town shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payments shall be delivered to the Town of Amherst, c/o Town Clerk/Tax Receiver, 5583 Main Street, Williamsville, New York 14221, or such other place as may be designated from time to time by the Town. Each such PILOT Payment to the County shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to County of Erie, c/o Director of Real Property Tax Services, The Edward A. Rath County Office Building, Room 100, 95 Franklin Street, Buffalo, New York 14202, or such other place as may be designated from time to time by the County. Each such PILOT Payment to the School District shall be made on or before September 30 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to the Williamsville Central School District, Attention Assistant Superintendent of Business & Finance, 105 Casey Road, East Amherst, New York 14051.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

5. Effect of Fulfillment of the Requirement. Once having paid the amounts required by this Agreement when due, the HDFC and the Partnership shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. Defaults in Payment in Lieu of Taxes. In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

7. Events of Default and Termination of Tax Exemption.

a. An event of default (“*Event of Default*”) shall be defined as (1) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership’s and/or HDFC’s failure to provide any material notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC’s failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town except as otherwise set forth herein.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of written notice from the Town regarding such default to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town’s immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town’s taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year’s real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney’s fees and related costs incurred in securing adherence to the terms of this Agreement.

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

f. Upon an Event of Default, so long as the New York State Housing Finance Agency (“HFA”), its nominee or designee (an “HFA Party”) holds a mortgage on the Property, the Town agrees to deliver a copy the written notice set forth in paragraph (b) above to HFA and HFA will have the right, but not the obligation, to cure such violation in the same timeframe given to the HDFC and the Partnership described above.

g. The Town hereby agrees that any cure of any Event of Default hereunder made or tendered by Wells Fargo Affordable Housing Community Development Corporation or its affiliate, as the Investor Limited Partner of the Partnership (the “Investor Limited Partner”) shall be deemed to be cured by the Partnership, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Company. The Investor Limited Partner shall not be obligated to cure any Event of Default.

8. Waiver. No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. Modification. Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. Notices. All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town:

Town Attorney's Office
Attn: Stanley J. Sliwa, Esq.
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Assessor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

If to the HDFC
or the Partnership:

Brewster Amherst Preservation, L.P.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

With a copy to: c/o Related Companies
30 Hudson Yards, 72nd Floor
New York, New York 10001
Attention: Matthew Finkle

With a copy to: New York State Housing Finance Agency
641 Lexington Avenue
New York, New York 10022

With a copy to: Wells Fargo Affordable Housing Community Development
Corporation
MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288
Attn: Director of Tax Credit Asset Management

If to Erie County: Erie County Attorney's Office
95 Franklin Street
Buffalo, New York 14202

If to the School
District: Williamsville Central School District
105 Casey Road
East Amherst, New York 14051

12. Pay Equity. The HDFC and the Partnership shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The HDFC and the Partnership shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the HDFC and the Partnership, their offices and facilities, for the purpose of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to conforming the HDFC's and the Partnership's compliance with Erie County Executive Order 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014) may constitute grounds for the immediate termination of this Agreement and may constitute grounds for determining that the HDFC and/or the Partnership are not qualified to participate in future Town contracts.

13. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, 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 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.

14. Amendments. This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. Assignments.

- a. This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town; provided, however, that any transfer between existing holders of ownership interests in the Partnership or the HDFC shall not require prior written consent of the Town even if such transfer would be in excess of fifty percent (50%) of the equity voting interests in the HDFC and/or Partnership. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership Company from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment); (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or the Partnership, including reasonable attorneys' fees, and shall contain such terms and conditions as reasonably required by the Town and its counsel.
- b. Notwithstanding anything to the contrary contained in this Section 15 or elsewhere in this agreement, the prohibition on Transfer described above shall not be construed to prohibit the transfer of title to the Project or any portion thereof to an HFA Party as a result of a foreclosure or the acceptance of a deed in lieu of foreclosure or comparable conversion of the loan held by HFA. During any period of time that an HFA Party owns the Project or if any subsequent owner acquires the Project from a HFA Party, neither HFA, nor such HFA Party, nor such subsequent owner will be liable or obligated for the breach or default of any obligation of any prior owner (including the Partnership and/or HDFC) under this Agreement, including, but not limited to, any payment or indemnification obligation, in which case the owner of the Project at the time the default occurred shall remain liable for any and all damages occasioned thereby even after such entity ceases to be the

owner (and, in such event, any party seeking to collect such damages shall have no recourse and shall have no right to levy against, or otherwise collect on, any judgment from the Project), provided that such defaulting owner shall bear no liability under this Agreement for any damages occasioned by any subsequent default under this Agreement occurring after such entity ceases to be the owner of the Project.

16. Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. Section Headings Not Controlling. The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. Severability. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall be forced to the greatest extent permitted by law.

19. Entire Agreement. This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. Authority to Execute. Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

{Rest of Page Left Intentionally Blank}

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDfC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE**TOWN OF AMHERST**

BY: _____
 Mark C. Poloncarz, County Executive
 Maria R. Whyte, Deputy County Executive

BY: _____
 Brian J. Kulpa, Supervisor

Date: _____

Date: _____

Approved as to content
 for Erie County:

Approved as to content for
 the Town of Amherst:

BY: _____
 Daniel Castle, Interim Commissioner
 Department of Planning
 & Economic Development

BY: _____
 David Marrano, Assessor

Date: _____

Date: _____

Approved as to form for
 Erie County:

Approved as to form for the
 Town of Amherst:

BY: _____
 Kristen M. Walder, Esq.
 Assistant County Attorney

BY: _____
 Stanley J. Sliwa, Esq.,
 Town Attorney

Date: _____

Date: _____

(Signature Page for Agreement For Payment In Lieu Of Taxes)

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

By: _____

Name: _____

Title: _____

Date: _____

**BREWSTER AMHERST PRESERVATION HOUSING
DEVELOPMENT FUND COMPANY, INC.**, a New York
not-for-profit corporation

By: _____
Matthew Finkle, Vice President

Date: _____

BREWSTER AMHERST PRESERVATION, L.P., a New York
limited partnership

By: Brewster Amherst MJP GP, LLC, a New York
limited liability company, its managing general partner

By: _____
Victor L. Peterson III, President

Date: _____

By: Brewster Amherst Related GP, LLC, a New York
limited liability company, its co-general partner

By: _____
Matthew Finkle, Vice President

Date: _____

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDFC - PILOT - CRS #2820)

SCHEDULE A

BREWSTER PILOT PAYMENTS

Tax Year	Total PILOT	Town	School	County
1	183,600	91,800	45,900	45,900
2	188,190	94,095	47,048	47,048
3	192,895	96,447	48,224	48,224
4	197,717	98,859	49,429	49,429
5	202,660	101,330	50,665	50,665
6	207,727	103,863	51,932	51,932
7	212,920	106,460	53,230	53,230
8	218,243	109,121	54,561	54,561
9	223,699	111,849	55,925	55,925
10	229,291	114,646	57,323	57,323
11	235,024	117,512	58,756	58,756
12	240,899	120,450	60,225	60,225
13	246,922	123,461	61,730	61,730
14	253,095	126,547	63,274	63,274
15	259,422	129,711	64,855	64,855
Total	3,292,302	1,646,151	823,075	823,075

SCHEDULE B**ERIE COUNTY EQUAL PAY CERTIFICATE**

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). The average compensation for female employees is not consistently below the average compensation for male employees, taking into account mitigating factors. We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Federal Equal Pay Law.

Signature

Verification

STATE OF _____)

COUNTY OF _____) SS:

A) _____, being duly sworn, states he or she is the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

B) _____, being duly sworn, states that he or she is the _____ [title of corporate office/position] of _____ [name of corporation], the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this _____

Day of _____, 20____

Attachment: Brewster.PILOT (RES-2021-725 : Brewster Amherst Preservation HDPC - PILOT - CRS #2820)



Amherst Town Board

5583 Main Street
 Williamsville, NY 14221
www.amherst.ny.us

Francina J. Spoth
 Town Clerk

Meeting: 08/17/21 04:00 PM
 Department: Town Attorney
 Initiated by: **Stanley J. Sliwa**
 Co-Sponsored by:

DOC ID: 24653

RESOLUTION 2021-726

ADJOURNED

Parkside Amherst Preservation HDFC - PILOT - CRS #2821

AGENDA ITEM - AUGUST 23rd, 2021

TO: Town Board

FROM: Stanley J. Sliwa, Esq.
 Town Attorney

DATE: August 18, 2021

RE: Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, L.P. - Request for a PILOT Agreement pursuant to Section 577 of Article 11 of Private Housing Fund - CRS #2821

Kindly adopt the following resolution with respect to the above matter:

WHEREAS, Parkside Amherst Preservation Housing Development Fund Company, Inc. ("HDFC") a New York not-for-profit corporation organized pursuant to Article 11 of the New York State Private Housing Finance Law ("PHFL") with an address of 200 John James Audubon Parkway, Suite 300, Amherst, New York, 14228, and Parkside Amherst Preservation, L.P. ("Partnership"), a New York Limited Partnership with an address of 200 John James Boulevard Parkway, Suite 300, Amherst, New York 14228 have requested that the Town of Amherst Town Board enter into a PILOT Agreement for 180 affordable living apartments ("Project") located at 302-332 Evans Road, Amherst, New York, 14221, bearing SBL #41.03-1-68 (the "Property"); 825-862 Robin Road, Amherst, New York, 14221, bearing SBL #41.11-3-1; 101-128 Robin Road, Amherst, New York, 14221, bearing SBL #41.03-1-60; 301-326 Robin Road, Amherst, NY 14221, bearing SBL #41.03-1-60; and 801-824 Robin Road, Amherst, New York 14221, bearing SBL #41-11-3-5 (collectively, the "Property"); and

WHEREAS, the HDFC is, or will become, the legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner of an affordable housing project consisting of approximately 180 affordable living apartments located in the Town of Amherst, Erie County, New York, located at the Property; and

WHEREAS, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York and Article XI of the Private Housing Finance Law of the State of New York; and

WHEREAS, the HDFC is the 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 Project is intended to be **affordable to low** income households, and **affordability** of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; 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, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town of Amherst (Town), the County of Erie (County) and the Williamsville Central School District (School District) for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, HDFC and the Partnership have requested that the Town Board approve a PILOT Agreement with a term of ~~twenty (20)~~ fifteen (15) years for the Property; and

WHEREAS, the content and form of the proposed PILOT Agreement have been reviewed and approved by the Town Assessor's Office and the Town Attorney's Office, a copy of the approved form of the proposed PILOT Agreement is attached hereto; and

WHEREAS, the PILOT Agreement must be approved by Erie County and the Williamsville Central School District;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the requested PILOT Agreement for the Project subject to the three (3) conditions set forth below and the Supervisor of the Town of Amherst is hereby authorized to sign the PILOT Agreement between Parkside Amherst Preservation Housing Development Fund Company, Inc. and Parkside Amherst Preservation, LP, the Town of Amherst, Erie County, and the Amherst Central School District upon satisfaction of the following three (3) conditions:

1. The PILOT Agreement is subject to review and approval by Erie County;
2. The PILOT Agreement is subject to review and approval by the Williamsville Central School District; and
3. Approval of the PILOT Agreement is subject to successful completion of the Town's contract routing system.

SJS:lcg

Attachment

c: Kathy Cooper, Deputy Town Clerk
(Agenda Item : August 23rd, 2021, w/attachment)
 David Marrano, Town Assessor (w/attachment)

8/17/2021

After presentations related to the Affordable Housing Rehab Projects by Deep Katdare (Related Affordable), Leonard Skrill (NYS Homes and Community Renewal Financing), Laurie Stillwell (Amherst Community Development), and Dave Marrano (Amherst Town Assessor), Supervisor Kulpa motioned to adjourn until August 23rd. The motion was seconded by Councilmember Bucki and unanimously approved 4-0.

8/23/2021

A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Bucki. A motion was then made by Deputy Supervisor Berger to amend, seconded by Councilmember Lavin and unanimously approved 5-0. Amendment changes the term from twenty (20) years to fifteen (15) years as shown in the resolution and in the revised attachment.

A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

PILOT

RESULT:	ADJOURNED [UNANIMOUS]	Next: 8/23/2021 3:00 PM
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Deborah Bruch Bucki, Councilmember	
AYES:	Kulpa, Bucki, Lavin, Szukala	
ABSENT:	Berger	

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

Between and Among

**PARKSIDE AMHERST PRESERVATION HOUSING
DEVELOPMENT FUND COMPANY, INC.**

AND

PARKSIDE AMHERST PRESERVATION, L.P.,

and

**THE TOWN OF AMHERST, NEW YORK
COUNTY OF ERIE, NEW YORK**

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT, NEW YORK

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (this “*Agreement*”) is made and entered into as of _____, 2021 by and between **PARKSIDE AMHERST PRESERVATION HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation organized pursuant to Article XI of the Private Housing Finance Law with an address of c/o Related Companies, 30 Hudson Yards, 72nd Floor, New York, New York 10001 (the “*HDFC*”), and **PARKSIDE AMHERST PRESERVATION, L.P.**, a New York limited partnership with an address of 200 John James Audubon Parkway, Suite 300, Amherst, NY 14228 (the “*Partnership*”), and the **TOWN OF AMHERST, NEW YORK**, a municipal corporation with an address of 5583 Main Street, Williamsville, Erie County, New York 14221 (the “*Town*”), the **COUNTY OF ERIE**, a municipal corporation with an address of 95 Franklin Street, Buffalo, New York 14202 (the “*County*”) and the **WILLIAMSVILLE CENTRAL SCHOOL DISTRICT**, a school district with an address of 105 Casey Road, East Amherst, New York 14051 (the “*School District*”). The HDFC, Partnership, Town, County, and School District are each a “*Party*” and are collectively referred to herein as the “*Parties*”.

WHEREAS, the HDFC, is, or will become, the legal or record owner, and the Partnership is or will become the beneficial and equitable owner, of an affordable housing project consisting of 180 affordable residential apartments (the “*Project*”) located in the Town of Amherst, Erie County, New York, at 302-332 Robin Road (Tax Map No. 41.03-1-68), 825-862 Robin Road (Tax Map No. 41.11-3-1), 101-128 Robin Road (Tax Map No. 41.03-1-60), 301-326 Robin Road (Tax Map No. 41.03-1-51) and 801-824 Robin Road (Tax Map No. 41.11-3-5) (collectively, the “*Property*”); and

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

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

WHEREAS, the Project is intended to be affordable to low income households, and affordability of the Project for residential use by low income persons shall remain consistent throughout the duration of this Agreement; 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, it is the intention of the Parties that the Partnership, for itself and the HDFC, shall make annual payments to the Town, the County and the School District for the term of this Agreement in lieu of real property taxes that would otherwise be assessed on the Project and the Property; and

WHEREAS, the Town, the County and the School District wish to grant the Partnership and the HDFC such relief as is permitted under Section 577 of the PHFL subject to the terms and conditions of this Agreement; and

WHEREAS, the Town, by Resolution Number _____ of the Town Board, adopted on _____, approved such an exemption and authorized this Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number _____ of the Erie County Legislature, adopted on _____, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number _____ of the School Board, adopted on _____, 20__ approved such an exemption and authorized this Agreement to be executed on behalf of the School District.

NOW THEREFORE, in exchange for the mutual commitments set forth herein and other good and valuable consideration, the parties agree as follows:

1. Tax Exemption. The Parties agree that the Project qualifies for a real property tax exemption pursuant to section 577 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project and the Property, including both land and improvements. "**Local and Municipal Taxes**" shall mean any and all real estate taxes levied by the County, the Town, the School District (collectively, the "**Taxing Jurisdictions**"). The Parties understand that the exemption extended pursuant to section 577 of the PHFL and this Agreement does not include exemption from special assessments, special ad valorem levies, improvement

district charges or similar tax equivalents. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

2. Obligation of the Partnership, for itself and the HDFC, to Make Payments in Lieu of Taxes. So long as the aforementioned exemption remains in place, the Partnership, for itself and the HDFC, shall make annual payments in lieu of taxes ("**PILOT Payments**") to the Town in the amounts set forth in **Schedule "A"**, as attached hereto and made a part hereof, in satisfaction of all real property taxes. The PILOT Payments shall be required to be made to the Taxing Jurisdictions following the March 1, 2022 tax status date commencing with the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District. The Parties agree that no refund of any real property taxes levied upon the Property prior to the 2023 tax fiscal year of the Town, the 2023 tax fiscal year of the County, and the 2022-2023 tax fiscal year of the School District shall be sought or claimed on account of the exemption made effective pursuant to this Agreement.

3. Requirements of the Partnership and the HDFC.

a. The tax exemption provided by this Agreement will continue for a term of fifteen (15) years, unless sooner terminated by law or mutual agreement upon prior written consent of the Parties, provided that the Partnership and the HDFC continue to operate the Project and the Property for persons of low income in conformance with Article XI of the PHFL.

b. The HDFC and the Partnership shall provide the Town such information concerning their operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, general certificates of the HDFC and the Partnership and the annual financial statements of the HDFC and the Partnership from the calendar year immediately preceding the fiscal year in which payments are due.

c. The HDFC and the Partnership shall permit the Comptroller of the Town to audit their books and records within fourteen (14) days after receiving a written request from the Town.

4. Taxing Authority and Amounts.

a. The Partnership, for itself and the HDFC, shall make annual PILOT Payments as follows:

i. A fixed annual PILOT Payment to the Town in the amounts as stated in **Schedule "A"**, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

ii. In addition to the payments set forth in Schedule A, the Partnership, for itself and the HDFC, will be responsible for paying all special assessments,

special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

iii. At the expiration of the fifteen (15) year term, this Agreement will cease to have any effect on the real property taxes due with respect to the Project and the Property will be taxed in accordance with applicable law unless otherwise extended or modified pursuant to a separate written agreement

b. The PILOT Payments shall be payable annually. Each such PILOT Payment to the Town shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payments shall be delivered to the Town of Amherst, c/o Town Clerk/Tax Receiver, 5583 Main Street, Williamsville, New York 14221, or such other place as may be designated from time to time by the Town. Each such PILOT Payment to the County shall be made on or before January 31 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to County of Erie, c/o Director of Real Property Tax Services, The Edward A. Rath County Office Building, Room 100, 95 Franklin Street, Buffalo, New York 14202, or such other place as may be designated from time to time by the County. Each such PILOT Payment to the School District shall be made on or before September 30 of that year, or such payment shall be considered delinquent, and such PILOT Payment shall be delivered to the Williamsville Central School District, Attention Assistant Superintendent of Business & Finance, 105 Casey Road, East Amherst, New York 14051.

c. The Partnership shall prepare, or cause to be prepared, all documents and forms required under this Agreement.

5. Effect of Fulfillment of the Requirement. Once having paid the amounts required by this Agreement when due, the HDFC and the Partnership shall not be required to pay any real property taxes for which such PILOT Payments have been made, except special assessments, special ad valorem levies, improvement district charges or similar tax equivalents as permitted by law.

6. Defaults in Payment in Lieu of Taxes. In the event the Partnership, for itself and the HDFC, fails to make PILOT Payments as herein required when due, the amount or amounts not so paid shall be a lien on the Project and the Property in the same manner that delinquent real property taxes would be and continue as an obligation of the Partnership and the HDFC until fully paid. In addition, the Partnership, for itself and the HDFC, shall pay the appropriate taxing authority's or authorities' interest and penalties on the unpaid amount or amounts accruing at the same times and at the interest rates as if such amounts were delinquent real property taxes. In addition to any other remedies available to them for the collection of delinquent real property taxes, including, without limitation, in rem proceedings, the Town, the County and the School District may exercise any other remedies available, and such remedies shall be cumulative and the exercise of any remedy shall not be an action of remedies under law.

7. Events of Default and Termination of Tax Exemption.

a. An event of default (“*Event of Default*”) shall be defined as (1) failure of the Partnership, for itself and the HDFC, to make any payment required under this Agreement when due, (2) the Partnership’s and/or HDFC’s failure to provide any material notice as required by this Agreement to the Town and/or the Taxing Jurisdictions, (3) the HDFC’s failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with section 577 of the PHFL, or (4) the transfer of title or beneficial ownership of any portion of the Project or the Property, without the consent of the Town except as otherwise set forth in Section 15 below.

b. Upon the occurrence of an Event of Default the Partnership and/or HDFC shall have ten (10) days after the receipt of written notice from the Town regarding such default to cure such default. In the event the Partnership and/or HDFC has not cured such default or defaults within such ten (10) day time period, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town’s immediately preceding fiscal year.

c. Upon a termination of the exemption from real property taxes due to an Event of Default, the Partnership and the HDFC shall be liable for real property taxes on a pro-rata basis from and after the Town’s taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year’s real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of the HDFC.

d. Upon an Event of Default, the Partnership and HDFC shall, upon demand, pay to the Town all reasonable attorney’s fees and related costs incurred in securing adherence to the terms of this Agreement.

e. Any termination of the exemption from real property taxes due to an Event of Default shall not void the liability of the HDFC or the Partnership for any unpaid PILOT Payments required by this Agreement prior to such termination.

f. Upon an Event of Default, so long as the New York State Housing Finance Agency (“HFA”), its nominee or designee (an “HFA Party”) holds a mortgage on the Property, the Town agrees to deliver a copy the written notice set forth in paragraph (b) above to HFA and HFA will have the right, but not the obligation, to cure such violation in the same timeframe given to the HDFC and the Partnership described above.

g. The Town hereby agrees that any cure of any Event of Default hereunder made or tendered by Wells Fargo Affordable Housing Community Development Corporation or its affiliate, as the Investor Limited Partner of the Partnership (the “Investor Limited Partner”) shall be deemed to be cured by the Partnership, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Company. The Investor Limited Partner shall not be obligated to cure any Event of Default.

8. Waiver. No waiver or modification of this Agreement shall be valid unless in writing and duly executed by the Parties, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation arising out of or affecting this Agreement, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. No failure or delay on the part of the Town to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

9. Modification. Neither this Agreement nor any provision hereof may be amended, modified, waived, discharged or terminated, except by an instrument in writing duly executed and agreed to by the Parties hereto.

10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement and signature pages for all purposes.

11. Notices. All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT shall be in writing and addressed to the following:

If to the Town:

Town Attorney's Office
Attn: Stanley J. Sliwa, Esq.
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Supervisor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Town Assessor
Town of Amherst
5583 Main Street
Williamsville, NY 14221

If to the HDFC
or the Partnership:

Parkside Amherst Preservation, L.P.
200 John James Audubon Parkway
Suite 300
Amherst, NY 14228

With a copy to: c/o Related Companies
30 Hudson Yards, 72nd Floor
New York, New York 10001
Attention: Matthew Finkle

With a copy to: New York State Housing Finance Agency
641 Lexington Avenue
New York, New York 10022

With a copy to: Wells Fargo Affordable Housing Community Development Corporation
MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288
Attn: Director of Tax Credit Asset Management

If to Erie County: Erie County Attorney's Office
95 Franklin Street
Buffalo, New York 14202

If to the School District: Williamsville Central School District
105 Casey Road
East Amherst, New York 14051

12. Pay Equity. The HDFC and the Partnership shall comply with Erie County Executive Order 13 (2014) and agree to complete the Erie County Equal Pay Certificate attached hereto as ***Schedule "B"*** and made a part hereof. The HDFC and the Partnership shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the HDFC and the Partnership, their offices and facilities, for the purpose of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to conforming the HDFC's and the Partnership's compliance with Erie County Executive Order 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014) may constitute grounds for the immediate termination of this Agreement and may constitute grounds for determining that the HDFC and/or the Partnership are not qualified to participate in future Town contracts.

13. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Parties. Each of the Parties represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized and does not require any other consent or approval, 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 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.

14. Amendments. This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of each of the Parties hereto.

15. Assignments.

- a. This Agreement may not be assigned in whole or in part without the prior written consent of the Town upon application made at least forty-five (45) days prior to a regularly scheduled meeting of the Town Board. A transfer in excess of fifty percent (50%) of the equity voting interests of the HDFC and/or the Partnership (including all parent and subsidiary companies and including the ultimate taxpayer(s) owning or controlling the Project and the Property) shall be deemed an assignment and require the prior written consent of the Town; provided, however, that any transfer between existing holders of ownership interests in the Partnership or the HDFC shall not require prior written consent of the Town even if such transfer would be in excess of fifty percent (50%) of the equity voting interests in the HDFC and/or Partnership. Any assignment, if and once approved, shall be on the following conditions, as of the time of such assignment: (i) no assignment shall relieve the HDFC or the Partnership Company from primary liability for any of their obligations hereunder; (ii) the assignee shall assume the obligations of the HDFC and/or the Partnership hereunder to the extent of the interest so assigned; (iii) the HDFC and/or the Partnership shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Town a true and complete copy of such assignment and the instrument of assumption and related documents associated with Approved Assignment); (iv) the Project shall continue to be operated in compliance with Article XI of the PHFL; and (v) if the Town shall so request, as of the purported effective date of any such assignment, the HDFC and/or the Partnership at its or their sole cost shall furnish to the Town an opinion, in form and substance satisfactory to the Town as to items (i), (ii) and (iv) above. Any such assignment shall be subject to the review and approval by the Town and approval as to form by the Town Attorney with any such cost to be paid by the HDFC and/or the Partnership, including reasonable attorneys' fees, and shall contain such terms and conditions as reasonably required by the Town and its counsel.
- b. Notwithstanding anything to the contrary contained in this Section 15 or elsewhere in this agreement, the prohibition on Transfer described above shall not be construed to prohibit the transfer of title to the Project or any portion thereof to an HFA Party as a result of a foreclosure or the acceptance of a deed in lieu of foreclosure or comparable conversion of the loan held by HFA. During any period of time that an HFA Party owns the Project or if any subsequent owner acquires the Project from a HFA Party, neither HFA, nor such HFA Party, nor such subsequent owner will be liable or obligated for the breach or default of any obligation of any prior owner (including the Partnership and/or HDFC) under this Agreement, including, but not limited to, any payment or indemnification obligation, in which case the owner of the Project at the time the default occurred shall remain liable for any and all damages occasioned thereby even after such entity ceases to be the

owner (and, in such event, any party seeking to collect such damages shall have no recourse and shall have no right to levy against, or otherwise collect on, any judgment from the Project), provided that such defaulting owner shall bear no liability under this Agreement for any damages occasioned by any subsequent default under this Agreement occurring after such entity ceases to be the owner of the Project.

16. Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

17. Section Headings Not Controlling. The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

18. Severability. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement shall remain in full force and effect and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

19. Entire Agreement. This Agreement constitutes the entire agreement of the Parties relating to PILOT Payments with respect to the Project and the Property and supersedes all prior contracts and/or agreements, whether oral or written, with respect thereto.

20. Authority To Execute. Any individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party, and this Agreement is binding upon such Party in accordance with its terms.

{Rest of Page Left Intentionally Blank}

(Signature Page for Agreement For Payment In Lieu Of Taxes)

IN WITNESS WHEREOF, the Town, County, School District, Partnership, and HDFC have duly executed this Agreement as of the day and year first above written.

COUNTY OF ERIE

TOWN OF AMHERST

BY: _____
Mark C. Poloncarz, County Executive
Maria R. Whyte, Deputy County Executive

BY: _____
Brian J. Kulpa, Supervisor

Date: _____

Date: _____

Approved as to content
for Erie County:

Approved as to content for
the Town of Amherst:

BY: _____
Daniel Castle, Interim Commissioner
Department of Planning
& Economic Development

BY: _____
David Marrano, Assessor

Date: _____

Date: _____

Approved as to form for
Erie County:

Approved as to form for the
Town of Amherst:

BY: _____
Kristen M. Walder, Esq.
Assistant County Attorney

BY: _____
Stanley J. Sliwa, Esq.,
Town Attorney

Date: _____

Date: _____

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDFC - PILOT - CRS #2821)

(Signature Page for Agreement For Payment In Lieu Of Taxes)

WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

By: _____

Name: _____

Title: _____

Date: _____

**PARKSIDE AMHERST PRESERVATION HOUSING
DEVELOPMENT FUND COMPANY, INC.**, a New York
not-for-profit corporation

By: _____

Matthew Finkle, Vice President

Date: _____

PARKSIDE AMHERST PRESERVATION, L.P.,

By: Parkside Amherst MJP GP, LLC, a New York
limited liability company, its managing general partner

By: _____

Victor L. Peterson III, President

Date: _____

By: Parkside Amherst Related GP, LLC, a New York
limited liability company, its co-general partner

By: _____

Matthew Finkle, Vice President

Date: _____

Attachment: Parkside.PILOT (RES-2021-726 : Parkside Amherst Preservation HDPC - PILOT - CRS #2821)

SCHEDULE A

PARKSIDE PILOT PAYMENTS

Tax Year	Total PILOT	Town	School	County
1	105,100	52,550	26,275	26,275
2	107,728	53,864	26,932	26,932
3	110,421	55,210	27,605	27,605
4	113,181	56,591	28,295	28,295
5	116,011	58,005	29,003	29,003
6	118,911	59,456	29,728	29,728
7	121,884	60,942	30,471	30,471
8	124,931	62,465	31,233	31,233
9	128,054	64,027	32,014	32,014
10	131,255	65,628	32,814	32,814
11	134,537	67,268	33,634	33,634
12	137,900	68,950	34,475	34,475
13	141,348	70,674	35,337	35,337
14	144,882	72,441	36,220	36,220
15	148,504	74,252	37,126	37,126
Total	1,884,645	942,323	471,161	471,161

SCHEDULE B**ERIE COUNTY EQUAL PAY CERTIFICATE**
Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). The average compensation for female employees is not consistently below the average compensation for male employees, taking into account mitigating factors. We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Federal Equal Pay Law.

Signature

Verification

STATE OF _____)

COUNTY OF _____) SS:

A) _____, being duly sworn, states he or she is the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

B) _____, being duly sworn, states that he or she is the _____ [title of corporate office/position] of _____ [name of corporation], the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this _____

Day of _____, 20____
