

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

AND

LOWER BROADWAY DEVELOPMENT, LLC

AMENDMENT ONE TO PAYMENT IN LIEU OF TAXES AGREEMENT

Dated as of December 10, 2018

**Affected Tax Jurisdictions:
County of Orange
City of Newburgh
Newburgh Enlarged City School District**

Section	30
Block	5
Lot	22.2

AMENDMENT ONE TO PAYMENT IN LIEU OF TAXES AGREEMENT

THIS AMENDMENT ONE to the PAYMENT IN LIEU OF TAXES AGREEMENT (hereinafter the "Agreement"), dated February 8, 2016, by and between **CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY**, (hereinafter "CNIDA") a public benefit corporation duly existing under the laws of the State of New York with its offices located at 83 Broadway, 3rd Floor, Newburgh, New York 12550 (the "Agency") and **LOWER BROADWAY DEVELOPMENT, LLC**, a New York limited liability company, with offices at 115 Liberty Street, Newburgh, New York 12550 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 304 of the Laws of 1971 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, CNIDA on February 8, 2016, approved an application dated February 3, 2016 (the "Application") to CNIDA requesting CNIDA's assistance with respect to a certain project (the "Project") consisting of: (i) CNIDA taking title, possession or control (by deed, lease, sublease, license or otherwise) of that certain land and vacant improvements located at 96 Broadway, Newburgh, New York (the "Project Site"); (ii) the lease, sublease, or installment sale of the Project Site to the Company; and (iii) the reconstruction, renovation, improving, maintenance and equipping of the Project Site (collectively, the "Facility"), which Facility will be developed and operated by the Company as a mixed use commercial structure including commercial/retail uses and market and affordable rental units under a lease or sublease from the Agency; and

WHEREAS, in order to induce the Company to acquire, renovate, construct and equip the Facility, CNIDA agreed to take title to or a leasehold interest in the Facility (the "Company Lease") and thereafter CNIDA lease backed the Facility back to the Company pursuant to the terms and conditions of a certain Agreement of Sublease (hereinafter "CNIDA Sublease") to be dated on or about the date hereof; and

WHEREAS, the Company has now applied to CNIDA to amend the Agreement by changing the property description of the approved Project to reflect the City of Newburgh's November 8, 2018 revision to its Tax Map. The revision merges Section 30, Block 5, Lots 22 and 23 into property now described as Section 30, Block 5, Lot 22.2

WHEREAS, pursuant to Section 874(1) of the Act, CNIDA is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special charges as defined by Section 2.1 which shall be paid by the Company outside this Agreement as billed by the respective third parties; and

WHEREAS, CNIDA and the Company deem it necessary and proper to amend the Agreement which provides for payments in lieu of taxes by the Company to CNIDA for the benefit of the County of Orange, the City of Newburgh and the Newburgh Enlarged City School District (collectively, the "Affected Tax Jurisdictions"); and

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, CNIDA and the Company mutually agree to amend the Agreement as follows:

Section 1.1 Payment in Lieu of Ad Valorem Taxes

Section 1.2 Property Description of Project Property: The parties agree and acknowledge that, effective December 10, 2016, the description of the Project property shall be **Section 30, Block 5, Lot 22.2 on the Tax Map of the City of Newburgh**. This description shall replace the PILOT Agreement's description of the project property which was **Section 30, Block 5, Lots 22 and 23**.

The parties re-confirm that all payments made under this Agreement, as amended, are for purposes of obtaining revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are exempt from the payment of real property taxes pursuant to Section 412-a of the Real Property Tax Law and Section 874 of the General Municipal Law. The Company shall pay, for the periods described in Section 1.8 below: (i) to the City, on **January 15 of each year beginning on January 15, 2020**, as an in lieu of tax payment, an amount equal to the City and the County proportionate share of the PILOT Payment as set forth on Schedule A (the "City and County PILOT Payments") for the periods described in Section 1.8; and (ii) to the School District, on **July 15 of each year beginning on July 15, 2020**, as an in lieu of tax payment, an amount equal to the School District proportionate share of the PILOT Payment as set forth on Schedule A (the "School District PILOT Payments"); and together with the City and County PILOT Payments the "PILOT Payments") for the periods described in Section 1.3.


Section 1.3 Period of Benefits. The period of tax benefits provided for in the Agreement (the "PILOT Abatement Period") shall commence January 1, 2020 and expire June 30, 2035, and shall be deemed to include: (i) the 2020-2021 School tax year (July 1, 2020, through June 30, 2021) through the 2034-2035 School tax year (July 1, 2034, through June 30, 2035); (ii) the 2020 City tax year (January 1 through December 31, 2020) through the 2035 City tax year (January 1 through December 31, 2035); and (iii) the 2020 County tax year (January 1 through December 31, 2020) through the 2035 City tax year (January 1 through December 31, 2035). For all periods prior to the PILOT Abatement Period and after the expiration thereof, the Company shall make payments hereunder in the amounts as if the Agency were not in title to the Facility on the tax lien date with respect to said tax years and the Facility is therefore not exempt from Real Estate Taxes. In respect of the preceding tax year (City and County tax year 2019 and School tax year 2019-20), such taxes shall be timely paid by the Company upon receipt of the tax bill for same issued by the City or the School District, as applicable. **This Agreement shall expire on June 30, 2035.** In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is

extended by amendment to this Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b of the New York Real Property Tax Law ("RPTL"); provided, the foregoing shall not be interpreted to limit the Company and Agency from subsequently agreeing to additional benefits based upon commitments to make additional improvements or changes in use from time to time between the Agency and the Company. It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

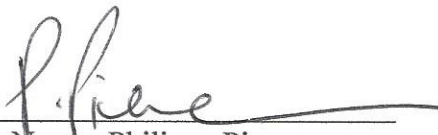
Section 1.4 Effect of Amendment on the Agreement. This Amendment does not amend, affect or alter any terms, conditions or obligations of the Agreement other than to alter the property description of the Project property as set out in Section 1.1 of this Amendment One to the PILOT Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF NEWBURGH INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Name: Joshua L. Smith
Title: Chairman

LOWER BROADWAY DEVELOPMENT,
LLC

By: 
Name: Philippe Pierre
Title: Authorized Signatory

SCHEDULE A

TO

Amendment One to the PILOT AGREEMENT dated the 10th of December 2018 by and between CNIDA and the Company

Pursuant to the terms of Sections 1.2 and 1.3 of this Amendment One to the Agreement, and subject to the adjustments set forth in Section 1.2 and 1.3, "PILOT Payments" shall mean an amount per annum equivalent to the Combined Aggregate Annual PILOT Payment as set forth in the following schedule (i.e., the PILOT Payment):

YEAR	CITY/COUNTY YEAR	SCHOOL DISTRICT YEAR	COMBINED AGGREGATE ANNUAL PILOT PAYMENT
N/A	2019	2019-20	Full taxable equivalent*
1	2020	2020-21	\$6,000
2	2021	2021-22	\$6,000
3	2022	2022-23	\$6,000
4	2023	2023-24	\$6,000
5	2024	2024-25	\$6,000
6	2025	2025-26	\$6,000
7	2026	2026-27	\$11,000
8	2027	2027-28	\$11,000
9	2028	2028-29	\$11,000
10	2029	2029-30	\$11,000
11	2030	2030-31	\$12,788
12	2031	2031-32	\$15,145
13	2032	2032-33	\$17,503
14	2033	2033-34	\$19,860
15	2034	2034-35	\$22,218

* The Company will file RP-581A and RP-444A for 2019.