

**CITY OF PEEKSKILL INDUSTRIAL DEVELOPMENT AGENCY**

**AND**

**COURTYARD HOUSING, LLC**

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**PAYMENT IN LIEU OF TAX AGREEMENT**

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**Dated as of April 1, 2005**

***Affected Tax Jurisdictions:***  
**Westchester County**  
**City of Peekskill**  
**Peekskill City School District**

**Tax Map ID No.     33.29-4-16.1**

## **PAYMENT IN LIEU OF TAX AGREEMENT**

THIS PAYMENT IN LIEU OF TAX AGREEMENT (the "Agreement"), dated as of the 1<sup>st</sup> day of April 2005, by and between the **CITY OF PEEKSKILL INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with its registered offices located at 840 Main Street, Peekskill, New York 10566 (the "Agency") and **COURTYARD HOUSING, LLC**, a New York limited liability company with offices located at 1155 Northern Boulevard, Suite 200, Manhasset, New York 11030 (the "Company").

### **WITNESSETH:**

WHEREAS, the Agency was created by Chapter 83 of the Laws of 1982 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, on or about the date hereof, the Agency has issued its housing revenue bonds in a principal amount equal to \$12,200,000 (Courtyard Housing, LLC Project), Series 2005 (the "Bonds") for the benefit of the Company for the purpose of financing a certain project (the "Project") consisting of: (A) the acquisition of title to or other interest in an approximately 1.9-acre parcel of land located at 901-907 Main Street in the City of Peekskill, New York (the "Land") and the existing improvements located thereon consisting principally of three two-story masonry buildings and one seven-story masonry building together with a landscaped courtyard and related improvements containing in the aggregate approximately 141,000 square feet of space (the "Existing Improvements") such Existing Improvements containing one studio apartment, 166 one-bedroom apartments and a two-bedroom manager's unit; (B) the renovation, reconstruction and equipping of the Existing Improvements to accommodate (i) 168 residential rental units and related common areas containing in the aggregate approximately 130,000 square feet of space (the "Residential Units"), one hundred percent (100%) of which Residential Units will be leased to households earning no more than sixty percent (60%) of the area's median gross income and (ii) approximately 11,000 square feet of space to be used for commercial and related purposes to the extent authorized under the Act (collectively, the "Improvements"); (C) the acquisition and installation in and around the Improvements of certain machinery, equipment and other items of tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements, and the Improvements, the "Facility"); (D) the paying of certain costs and expenses incidental to the issuance of the Bonds (the costs associated with items (A) through (D) above being hereinafter referred to as the "Project Costs"); and (E) the lease (with an obligation to purchase) or sale of the facilities financed with the Bonds to the Company or such other person as may be designated by the Company and agreed upon by the Issuer; and

WHEREAS, in order to induce the Company to acquire, construct and equip the Facility, the Agency is willing to take a leasehold interest to the land, improvements and personal property constituting the Facility and lease said land, improvements and personal property back

to the Company pursuant to the terms and conditions of the Lease Agreement dated on or about the date hereof (the "Lease Agreement"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Agency for the benefit of the City of Peekskill, New York ("City"), the Peekskill City School District (the "School") and Westchester County, New York (the "County" and, collectively with the City and the School, the "Affected Tax Jurisdictions").

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

#### Section I - Payment in lieu of Ad Valorem Taxes:

1.1 A. Subject to the completion and filing by the taxable status date (May 1, 2005) (the "Taxable Status Date") of New York State Form RP-412-a Application For Real Property Tax Exemption (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Facility shall be exempt from Real Estate Taxes commencing with the 2006 City and County tax year and the 2005/2006 School tax year. For purposes of the foregoing, "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the City, County and School District. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Lease Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the Facility continues to qualify as a "project" under the Act; (ii) the Facility has not been declared to be in default with respect to the provisions of any applicable Agency Restrictions and/or any Housing and Urban Development ("HUD") Section 236 use restrictions encumbering the Facility and the Company is in compliance with any and all Agency and HUD use restrictions relating to the Facility, specifically including but not limited to the HUD Section 236 Extended Use Agreement dated April 28 2005, the HUD Interest Reduction Payment Agreement and the Tax Regulatory Agreement (collectively, the "Regulatory Agreements"); (iii) neither the Facility nor any part of or interest therein has been declared in default under any document for which the Facility could be sold, forfeited or lost; (iv) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability;

and (v) the non-inclusion of interest on the Bonds for Federal income tax purposes will not be adversely affected. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Agency to file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date.

B. Payee/Total PILOT Payments. (i) *Payee.* As long as the Facility is leased by the Agency, the Company agrees to pay to the Agency Attn: Director, 840 Main Street, Peekskill, New York 10566, as a payment in lieu of taxes, on or before March 15 of each calendar year commencing on March 15, 2006 (the "Payment Date"), an amount equal to the Total PILOT Payment (as hereinafter defined). The Company hereby agrees to make all such Total PILOT Payments on or before each Payment Date without further notice or invoice from the Agency or the Affected Tax Jurisdictions.

(ii) *Total PILOT Payment.* For purposes of this Agreement, each "Total PILOT Payment" shall be an amount equal to Shelter Rent multiplied by six percent (6.00%) for the first thirty (30) years, with an increasing schedule of payments in PILOT years thirty-one (31) through forty (40) resulting in payments measured by the greater of between ten percent (10%) and nineteen percent (19%) of Shelter Rents or between a fifty-five percent (55%) and ten percent (10%) abatement on full taxation. For purposes of this Agreement and in determining the Total PILOT Payment in PILOT years 31 thirty-one (31) through forty (40), where the above-described abatement on full taxes is used, the Total PILOT Payment shall be the product of the current tax rate(s) for such Affected Tax Jurisdiction (after application of any applicable equalization rate) multiplied by the Total Taxable Valuation which shall be further multiplied by a defined abatement factor. (a schedule for determining annual Total PILOT Payments is set forth within **Schedule A**)

(iii) *Calculation of "Shelter Rent".* The term "Shelter Rent" shall mean total net residential rental income received by the Company for the Facility, including residential rents and federal subsidies but specifically excluding any commercial rents, for the calendar year in which the Total PILOT Payment is due ("Total Net Rental Income"), less Utility Expenses. The term "Utility Expenses" shall mean all utility and insurance charges incurred by the Company for operations at the Facility for the calendar year in which the Total PILOT Payment is due; including, but not limited to, gas, water, sewer, electric, refuse disposal and property insurance. Utility Expenses shall not include any utility or related costs incurred by any tenants, whether commercial or residential, residing at the Facility. Once Total Net Rental Income is adjusted by subtracting Utility Expenses to determine Total Gross Shelter Rent, Total Gross Shelter Rent shall be multiplied by six percent (6.0%) to determine the Total PILOT Payment in PILOT years using this shelter rent calculation. The Total PILOT Payment may be further adjusted such that special district and other local taxes paid during the calendar year in which the Total PILOT Payment is due may be deducted from the Total PILOT Payment only to the extent that the total special district and other local taxes paid are equal to or less than fifty percent (50%) of the Total PILOT Payment. Any special district and other local taxes paid exceeding fifty percent (50%) of the Total PILOT Payment may only be deducted as a "Utility Expense". (a schedule for determining Shelter Rent is set forth within **Schedule B**)

(iv) *Company Certificate.* The Company shall submit with each Total PILOT Payment a certificate executed by the Company's chief financial or other similar officer showing the Company's calculation of the Total PILOT Payment for such year (the "PILOT Certificate"). The PILOT Certificate shall contain detailed information regarding the Shelter Rent, Utility Expenses and such other information as requested by the Agency or its counsel. In addition, the PILOT Certificate shall contain an affirmative representation of the Company that it has not received any notice of non-compliance with the Regulatory Agreements and any and all HUD Section 236 use restrictions encumbering the Facility and include a representation that the Regulatory Agreements have not been amended or, if amended, the nature of such amendment. The Company hereby agrees to provide any additional information requested by the Agency or its counsel not contained in the Company Certificate as of its date of submission. The Company covenants to keep accurate records and books of account in accordance with generally accepted accounting principles consistently applied and to have its financial statements examined annually by an independent public accountant. At the request of the Agency or its counsel, the Company will provide the Agency with any such audited financial statements.

(v) *Public Purpose.* The parties agree and acknowledge that payments made hereunder are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls.

1.2 Valuation of Future Additions to the Facility: If there shall be a future addition to the Facility constructed or added in any manner after the date of this Agreement, including any improvements to the approximately 11,000 square feet of space within the Facility to be used for commercial and related purposes to the extent authorized under the Act and any other internal or external improvements to the Facility, the Company shall notify the Agency of such future addition ("Future Addition"). A "Future Addition" shall not mean or include an increase in the number or improvements to the condition of the Residential Units, as defined herein and contemplated and regulated within the Lease and the Regulatory Agreements, where such Residential Units are or continue to be leased to households earning no more than sixty percent (60%) of the area's median gross income. The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant evidence that the Agency may thereafter request. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the Total PILOT Payment. It is expressly agreed by the parties hereto that any such Future Addition, except as provided within the preceding sentence, shall be subject to an additional PILOT Payment (the "Additional PILOT Payment") in an amount equal to that which would be paid if the Future Addition were owned by the Company and subject to full taxation. In any PILOT year in which an Additional PILOT Payment is due in connection with a Future Addition pursuant to this Section 1.2 of this PILOT Agreement, the Company shall pay that amount in addition to the Total PILOT Payment, the collective amounts to be the Adjusted Total PILOT Payment. Any such Additional PILOT Payment shall not act as an allowable deduction to either Total Gross Shelter Rent or Total PILOT Payment. The Agency shall notify the Company of any proposed Additional PILOT Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Agency, then and in that event that valuation shall be fixed by a court of

competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the Additional Total PILOT payment until a different Additional Total PILOT Payment shall be established. If a lesser Adjusted Total Annual Payment is determined in any proceeding or by subsequent agreement of the parties, the Adjusted Total PILOT Payment shall be re-computed and any excess payment shall be refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding Adjusted Total PILOT Payment(s).

1.3 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2006 County and City calendar tax year through the 2045 County and City calendar tax year and (ii) 2005/2006 School tax year through the 2044/2045 School tax year. This PILOT Agreement shall expire on December 31, 2045 (with the understanding that the Company will be making a payment hereunder for County and City tax year 2046 and School tax year 2045/2046 in the amounts as if the Agency were not in title on the tax status date with respect to said tax years). 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"). 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.

1.4 Allocation. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement.

1.5 Tax Rates. For purposes of determining the allocation of the Adjusted Total PILOT Payment among the Affected Tax Jurisdictions in PILOT years thirty-one (31) through forty (40) where an abatement on full taxes may be used, the Agency shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County, City and School District purposes, the tax rates used to determine the allocation of the Adjusted Total PILOT Payment shall be the tax rates relating to the calendar year which includes the PILOT payment due date.

## Section II - Special District Charges, Special Assessments and Other Charges.

2.1 Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges are to be paid in full in accordance with normal billing practices, subject to any applicable exemptions afforded according to the laws of the State, County or City, as may be amended from time to time.

### Section III - Transfer of Facility.

3.1 In the event that the Facility is transferred from the Agency to the Company (the Lease Agreement is terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section I herein, or this Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility (taking into account any Adjusted Total PILOT Payment previously made by the Company for the applicable PILOT year) if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination.

### Section IV - Assessment Challenges.

4.1 The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility, with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

4.2 The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Agreement, as if and to the same extent as if the Company were the owner of the Facility.

4.3 Where appropriate pursuant to the provisions of this Section IV, the Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments as if the Facility were owned by the Company, (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

### Section V - Changes in Law.

5.1 To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

### Section VI - Events of Default.

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company (or any authorized assignee hereunder) to: (i) make the payments described in Section

I within thirty (30) days of the Payment Date (the "Delinquency Date"); (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; (iii) the occurrence and continuance of any events of default under the Lease Agreement or the Regulatory Agreements after any applicable cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the General Municipal Law and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section I herein are not made by the Delinquency Dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows. With respect to payments to be made pursuant to Section I herein, if said payment is not received by the Delinquency Date as defined in Section 6.1 herein, the Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

#### Section VII - Assignment.

7.1 No portion of any interest in this Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, however, this Agreement may be assigned, without further Agency approval, to Bank of America, or its successors (the "Bank") upon a foreclosure sale of the Facility, provided the Bank shall agree to be bound and comply with the provisions of the Regulatory Agreements and any HUD Section 236 use restrictions encumbering the Facility and the other terms and conditions contained herein.

#### Section VIII - Miscellaneous.

8.1 This Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.



8.2 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

<u>To the Agency:</u>  City of Peekskill Industrial Development Agency 840 Main Street Peekskill, New York 10566 Attn: Acting Executive Director	
<u>To Agency Counsel:</u>  William J. Florence, Esq. Peekskill City Hall 840 Main Street Peekskill, New York 10566	--and to--  Harris Beach LLP 99 Garnsey Road Pittsford, New York 14534 Attn: Shawn M. Griffin, Esq.
<u>To the Company:</u>  Courtyard Housing, LLC 1155 Northern Boulevard, Suite 200 Manhasset, New York 11021 Attn: Mark Soja	
<u>To Company Counsel:</u>  Cannon, Heyman & Weiss LLP 50 Beaver Street, 4 <sup>th</sup> Fl. Albany, New York 12207 Attn.: Steve Heyman, Esq.	

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

8.3 This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in the City of Peekskill, Westchester County, New York.

8.4 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and

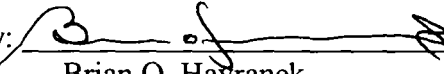
other monies, if any, derived from the Facility and paid to the Agency by the Company. Neither member of the Agency nor any person executing this Agreement on its behalf shall be liable personally under this Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Agreement.

8.5 Notwithstanding anything contained herein to the contrary, the Agency, at its sole discretion and on a case-by-case basis, may determine, (but shall not be required to do so) with respect to a particular project, that a project has failed to meet its intended goals and to require the project applicant to agree to the recapture by the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency's involvement. Events that the Agency may determine will trigger recapture may include, but not limited to (i) Sale or closure of facility; (ii) Significant employment reduction; (iii) Significant change in use in facility; (iv) Significant change in business activities or project applicant or operator; or (v) Material noncompliance with or breach of terms of Agency transaction documents or of zoning or land use laws or regulations or federal, state or local environmental laws or regulations. If the Agency determines to provide for the recapture with respect to a particular project, the Agency also shall, in its sole discretion and on a case-by-case basis, determine the timing and percentage of recapture. The Agency shall notify the Company in writing within thirty (30) days of any such Event of Default of its intent to recapture PILOT Benefits (or any portion thereof).

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

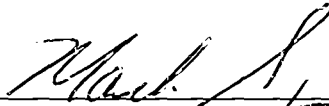
CITY OF PEEKSKILL INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Brian O. Havranek  
Acting Executive Director

COURTYARD HOUSING, LLC  
a New York limited liability company,

By: Courtyard Partners LLC, a New York  
limited liability company, its managing  
member

By: Marathon Development Group, LLC,  
a New Jersey limited liability company,  
its Managing Member

By:   
Mark Soja, Managing Member

**SCHEDULE A**  
**TO**  
**PILOT AGREEMENT DATED AS OF APRIL 1, 2005, BETWEEN**  
**CITY OF PEEKSKILL INDUSTRIAL DEVELOPMENT AGENCY**  
**AND**  
**COURTYARD HOUSING, LLC.**

“Total PILOT Payment” shall be calculated as follows:

<b><u>PILOT Year</u></b>	<b><u>County Tax Year</u></b>	<b><u>City Tax Year</u></b>	<b><u>School Tax Year</u></b>	<b><u>Total PILOT Payment</u></b>
Years 1-30	2006-2035	2006-2035	2005/2006- 2034-2035	6.00% Shelter Rents, as defined herein
Year 31	2036	2036	2035/2036	The greater of 10% Shelter Rents, or Rate x (Total Taxable Valuation x .45)
Year 32	2037	2037	2036/2037	The greater of 11% Shelter Rents, or Rate x (Total Taxable Valuation x .50)
Year 33	2038	2038	2037/2038	The greater of 12% Shelter Rents, or Rate x (Total Taxable Valuation x .55)
Year 34	2039	2039	2038/2039	The greater of 13% Shelter Rents, or Rate x (Total Taxable Valuation x .60)
Year 35	2040	2040	2039/2040	The greater of 14% Shelter Rents, or Rate x (Total Taxable Valuation x .65)
Year 36	2041	2041	2040/2041	The greater of 15% Shelter Rents, or Rate x (Total Taxable Valuation x .70)
Year 37	2042	2042	2041/2042	The greater of 16% Shelter Rents, or Rate x (Total Taxable Valuation x .75)
Year 39	2043	2043	2042/2043	The greater of 17% Shelter Rents, or Rate x (Total Taxable Valuation x .80)
Year 39	2044	2044	2043/2044	The greater of 18% Shelter Rents, or Rate x (Total Taxable Valuation x .85)
Year 40	2045	2045	2044/2045	The greater of 19% Shelter Rents, or Rate x (Total Taxable Valuation x .90)

For the term of this PILOT Agreement, the Company shall pay the applicable Total PILOT Payment as set forth within the above schedule. The Total PILOT Payment shall be an amount equal to Shelter Rent multiplied by six percent (6.00%) for the first thirty (30) years, with an increasing schedule of payments in PILOT years thirty-one (31) through forty (40) resulting in payments measured by the greater of between ten percent (10%) and nineteen percent (19%) of shelter rents or between a fifty-five percent (55%) and ten percent (10%) abatement on full taxation. In any PILOT year in which an Additional PILOT Payment is due in connection with a Future Addition pursuant to Section 1.2 of this PILOT Agreement, the Company shall pay that amount in addition to the Total PILOT Payment, the collective amounts to be the Adjusted Total PILOT Payment.

For purposes of this Agreement and in determining the Total PILOT Payment in PILOT years 31 thirty-one (31) through forty (40), the Company shall determine the applicable amount

of Total PILOT Payment that would be due and payable using the shelter rent calculation (the "Shelter Rent Method"). Then, the Company shall determine the amount of Total PILOT Payment that would be due where the above-described abatement on full taxes is used (the "Abatement Method"). The Total PILOT Payment using the Abatement Method shall be the product of the collective, current tax rates ("Rate") for such Affected Tax Jurisdictions (after application of any applicable equalization rates) multiplied by the Total Taxable Valuation. The Total Taxable Valuation shall be the full assessed valuation of the Facility, excluding any valuation associated with any Future Additions, as defined herein. In each applicable PILOT year, the Total Taxable Valuation shall be multiplied by an abatement factor ("Abatement Factor"). The Abatement Factor shall provide a corresponding 55% exemption from taxation for the thirty first (31<sup>st</sup>) PILOT Year, with such corresponding exemption being reduced each subsequent PILOT Year in 5% increments.

Abatement Method:

$$\text{Total PILOT Payment} = \text{Tax Rate(s)} \times (\text{Total Taxable Valuation} \times \text{Abatement Factor})$$

Once the applicable figures are determined using the Shelter Rent Method and the Abatement Method in each of PILOT years 31 thirty-one (31) through forty (40), the Company shall make a Total PILOT Payment reflecting the GREATER of these two figures. After the fortieth (40<sup>th</sup>) PILOT Year, the Facility shall be subject to full taxation by the affected taxing jurisdictions.

**SCHEDULE B**  
**TO**  
**PILOT AGREEMENT DATED AS OF APRIL 1, 2005, BETWEEN**  
**CITY OF PEEKSKILL INDUSTRIAL DEVELOPMENT AGENCY**  
**AND**  
**COURTYARD HOUSING, LLC.**

**Annual Reporting Form for Calculation of Payment in Lieu of Taxes**  
**for the Year Ended December 31, 2005**

Rental Income:		
Rent Roll - Apartments		
Federal Rent Supplement		
Total Rental Income		
Less: Vacancies		
Total Net Rental Income		
Less: Utility Expenses of Company		
Electricity		
Gas		
Water & Sewer		
Insurance		
Refuse Collection		
Total Gross Shelter Rent		
x      Payment Rate 6% (.060)		
Total PILOT Payment		
Less: special district and other local taxes paid during calendar year*:		
Total PILOT Payment Due		
Additional PILOT Payment (Section 1.2)		
Adjusted Total PILOT Payment		

\* - Special district and other local taxes paid during the calendar year may be deducted from the Total PILOT Payment only to the extent that the total special district and other local taxes paid are equal to or less than fifty percent (50%) of the Total PILOT Payment. Any special district and other local taxes paid exceeding fifty percent (50%) of the Total PILOT Payment may only be deducted as a "Utility Expense".

NOTE: For PILOT years 31-40, the Company shall also calculate the Total PILOT Payment using the Abatement Method. Where the Total PILOT Payment determined by the Abatement Method is greater than the Total PILOT Payment associated with the Shelter Rent Method for any of the PILOT years 31-40, the Total PILOT Payment shall be determined using

the Abatement Method. Special district and other local taxes paid during the calendar year may not be deducted from the Total PILOT Payment where the Abatement Method is used.





c. Municipal corporations to which payments will be made

	Yes	No
County <u>Westchester</u>	X	
Town/City <u>City of Peekskill</u>	X	
Village <u>N/A</u>		X
School District <u>Peekskill</u>	X	

d. Person or entity responsible for payment

Name Mark Soja  
 Title Managing Member  
 Address Courtyard Housing, LLC, 1155 Northern Blvd., Manhasset, NY 11030

e. Is the IDA the owner of the property? Yes ☒ No ☐ (circle one)

If "No" identify owner and explain IDA rights or interest in an attached statement. No: IDA has leasehold interest in property granted by Occupant.

Telephone (516) 627-5223, Ext. 3125

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) ☒ Yes ☐ No.

If yes, list the statutory exemption reference and assessment roll year on which granted:

exemption PHFL Art II Project assessment roll year circa 1974

Sponsored by NYSUDC

7. A copy of this application, including all attachments, has been mailed or delivered on 4/28/05 (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

### CERTIFICATION

I, Brian O. Havranek, Acting Executive Director of City of Peekskill Industrial Development Agency hereby certify that the information on this application and accompanying papers constitutes a true statement of facts.

April 28, 2005

Date

  
 Signature

### FOR USE BY ASSESSOR

1. Date application filed \_\_\_\_\_

2. Applicable taxable status date \_\_\_\_\_

3a. Agreement (or extract) date \_\_\_\_\_

3b. Projected exemption expiration (year) \_\_\_\_\_

4. Assessed valuation of parcel in first year of exemption \$ \_\_\_\_\_

5. Special assessments and special as valorem levies for which the parcel is liable:

\_\_\_\_\_  
 \_\_\_\_\_

Date

Assessor's signature

**SCHEDULE A**

**TO**

**INDUSTRIAL DEVELOPMENT AGENCIES  
APPLICATION FOR REAL PROPERTY TAX EXEMPTION**

(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

**4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)**

**a. Brief description (include property use).** The property will be the site of a certain project (the "Project") undertaken by the Occupant as agent for the IDA. The Project shall consist of: (A) the acquisition of title to or other interest in an approximately 1.9 acre parcel of land located at 901-907 Main Street in the City of Peekskill, New York (the "Land") and the existing improvements located thereon consisting principally of three two-story masonry buildings and one seven-story masonry building together with a landscaped courtyard and related improvements containing in the aggregate approximately 141,000 square feet of space (the "Existing Improvements") such Existing Improvements containing one studio apartment, 166 one-bedroom apartments and a two-bedroom manager's unit; (B) the renovation, reconstruction and equipping of the Existing Improvements to accommodate (i) 168 residential rental units and related common areas containing in the aggregate approximately 130,000 square feet of space (the "Residential Units"), one hundred percent (100%) of which Residential Units will be leased to households earning no more than sixty percent (60%) of the area's median gross income and (ii) approximately 11,000 square feet of space to be used for commercial and related purposes to the extent authorized under the Act (collectively, the "Improvements"); (C) the acquisition and installation in and around the Improvements of certain machinery, equipment and other items of tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements, and the Improvements, the "Facility").