File #: Res 1740-2021, **Version:** *

THE COUNCIL OF THE CITY OF NEW YORK

RES. NO. 1740

Resolution approving a new exemption from real property taxes pursuant to Section 577 of the Private Housing Finance Law (PHFL), the termination of a prior exemption pursuant to PHFL Section 125, and consent to the voluntary dissolution of the prior owner pursuant to PHFL Section 123(4) for property located at (Block 493, Lot 41) Manhattan (Preconsidered L.U. No. 845).

By Council Member Dromm

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated August 31, 2021 that the Council take the following action regarding a housing project located at (Block 493, Lot 41) Manhattan, ("Exemption Area"):

Approve an exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law (PHFL) (the "Tax Exemption");

Approve the termination of a prior tax exemption for the Exemption Area pursuant to PHFL Section 125 (the "Termination");

Consent to the voluntary dissolution of the current owner pursuant to PHFL Section 123(4) (the "Dissolution");

WHEREAS, The project description that HPD provided to the Council states that the purchaser of the Project (the "Owner") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption, Termination and Dissolution;

RESOLVED:

The Council hereby grants an exemption from real property taxes as follows:

1. Approve the exemption from real property taxation pursuant to Section 577 of the Private Housing Finance Law as follows:

   a.   For the purposes hereof, the following terms shall have the following meanings:

(1) "Contract Rent Deadline" shall mean three hundred and sixty-five (365) days from the date of the HPD letter requesting the information that HPD needs to calculate the Contract Rent Differential Tax or Courtyard Contract Rent Differential Tax for the applicable tax year.

(2) "Contract Rent Differential Tax" shall mean the sum of (i) $962,466, plus (ii) twenty-five percent (25%) of the First Contract Rent Differential; provided, however that the total annual real property tax payment by the New Owner shall not at any time exceed the lesser of either (i) seventeen percent (17%) of the contract rents in the applicable tax year, or (ii) the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule, or regulation. Notwithstanding the foregoing, if the New Owner fails to provide the contract rents on or before the Contract Rent Deadline, Contract Rent Differential Tax shall mean an amount equal to real property taxes that would otherwise be due in such tax year in the absence of any form of exemption from or abatement of real property taxation.

(3) "Courtyard Contract Rent Differential Tax" shall mean (a) six percent (6%) of the Gross Rent for the ten taxable years from July 1st of the first tax year after a notice to proceed that is acceptable to HPD is issued by PennRose, LLC, the owner of the real property located in the Borough of Manhattan, City and State of New York, identified as Block 493, Lot 30, to New Owner, a copy of which is simultaneously provided to HPD, pursuant to instructions in the Regulatory Agreement, and (b) ten percent (10%) of the Gross Rent on the eleventh anniversary of the first tax year after the date of such notice, plus twenty-five percent (25%) of the Second Contract Rent Differential; provided, however, that, (c) with respect to either (a) or (b), if the New Owner fails to provide the contract rents on or before the Contract Rent Deadline, Courtyard Contract Rent Differential Tax shall mean an amount equal to real property taxes that would otherwise be due in such tax year in the absence of any form of exemption from or abatement of real property taxation, and (d) if the New Owner does not notify HPD's Division of Housing Opportunity and Program Service, pursuant to instructions in the Regulatory Agreement, on a date that is no earlier than 114 months (9 years and six months) and no later than 118 months (9 years and ten months) from the date such notice to proceed was issued to the New Owner that the expiration of such ten-year period is approaching, the New Owner must pay the Contract Rent Differential Tax for the entire period of the New Exemption commencing with the Effective Date and during each year thereafter until the Expiration Date, provided, however that the total annual real property tax payment by the New Owner shall not at any time exceed the lesser of either (i) seventeen percent (17%) of the contract rents in the applicable tax year, or (ii) the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule, or regulation.

(4) "Current Owner" shall mean L.I.R.A. Apartments Co., L.P.

(5) "Effective Date" shall mean the date of conveyance of the Exemption Area to the HDFC.

(6) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 493, Lot 41 on the Tax Map of the City of New York.

(7) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.

(8) "First Contract Rent Differential" shall mean the amount by which the total contract rents applicable to the Exemption Area for such tax year (as adjusted and established pursuant to Section 8 of the United States Housing Act of 1937, as amended) exceed the total contract rents which are authorized as of the Effective Date.

(9) "Gross Rent" shall mean the gross potential rents from all residential, commercial, and community facility units on the Exemption Area without regard to whether such units are occupied or vacant, including, but not limited to, Section 8, rent supplements, rental assistance, or any other subsidy.

(10) "HDFC" shall mean L.I.R.A. Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.

(11) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

(12) "New Exemption" shall mean the exemption from real property taxation   provided hereunder with respect to the Exemption Area.

(13) "New Owner" shall mean, collectively, the HDFC and the Partnership.

(14) "Partnership" shall mean L.I.R.A. Apartments Co., L.P. or any other entity that acquires the beneficial interest in the Exemption Area with the prior written consent of HPD.

(15) "PHFL" shall mean the Private Housing Finance Law.

(16) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on March 12, 1981 (Cal. No. 22).

(17) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the New Owner establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.

(18) "Second Contract Rent Differential" shall mean the amount by which the total contract rents applicable to the Exemption Area for such tax year (as adjusted and established pursuant to Section 8 of the United States Housing Act of 1937, as amended) exceed the total contract rents which are authorized as of the eleventh anniversary of the first tax year after a notice to proceed that is acceptable to HPD is issued by PennRose, LLC, the

owner of the real property located in the Borough of Manhattan, City and State of New York, identified as Block 493, Lot 30, to New Owner, a copy of which is simultaneously provided to HPD, pursuant to instructions in the Regulatory Agreement.

b. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business, commercial, or community facility use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.

c. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the New Owner shall make real property tax payments in the sum of either the Contract Rent Differential Tax or the Courtyard Contract Rent Differential Tax, as applicable.

d. Notwithstanding any provision hereof to the contrary:

(1) The New Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (iv) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the New Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.

(2) The New Exemption shall apply to all land in the Exemption Area, but shall only apply to a building on the Exemption Area that exists on the Effective Date.

(3) Nothing herein shall entitle the HDFC, the New Owner, or any other person or entity to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

e. In consideration of the New Exemption, the owner of the Exemption Area shall, for so long as the New Exemption shall remain in effect, waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state, or federal law, rule, or regulation. Notwithstanding the foregoing, nothing herein shall prohibit the granting of any real property tax abatement pursuant to Sections 467-b or 467-c of the Real Property Tax Law to real property occupied by senior citizens or persons with disabilities.

2. Approve, pursuant to Section 125 of the PHFL, the termination of the Prior Exemption, which termination shall become effective one day preceding the conveyance of the Exemption Area from the Current Owner to the New Owner.

3. Consent, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.

4. If the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur either (i) within one day following the termination of the Prior Exemption, or (ii) on the same day as the voluntary dissolution of the Current Owner, then all of the approvals and consents set forth above shall be null and void, the dissolution of the Current Owner shall be rescinded, and both the obligations of the Current Owner to remain an Article V redevelopment company and the Prior Exemption shall be reinstated as though they had never been terminated or interrupted.

Office of the City Clerk,   }

The City of New York   } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of the City of New York on September 23, 2021, on file in this office.

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City Clerk, Clerk of Council