

CERTIFICATE OF INCORPORATION

OF

HOUSING DEVELOPMENT FUND CORPORATION

PURSUANT TO ARTICLE XI OF THE PRIVATE HOUSING FINANCE LAW AND

SECTION 402 OF THE BUSINESS CORPORATION LAW

OF THE STATE OF NEW YORK

THE UNDERSIGNED, for the purpose of forming a housing development fund corporation pursuant to Article XI of the Private Housing Finance Law and Section 402 of the Business Corporation Law, hereby certifies:

1. Name. The name of the corporation is _____
Housing Development Fund Corporation ("Corporation").
2. Definitions. As used herein, the following terms shall have the meanings set forth below:
 - a. "AMI" shall mean, at the option of the Supervising Agency, either (i) the area median income for the primary metropolitan statistical area as determined by HUD from time to time for a family of four, as adjusted for family size, or (ii) two hundred percent of the income limit established from time to time by HUD pursuant to Section 3(b)(2) of the United States Housing Act of 1937, as amended, for very low income families (those at or below fifty percent of area median income) receiving housing assistance payments in New York City, as adjusted for household size. If HUD ceases to establish either such figure, the Supervising Agency shall establish an alternative method of determining AMI.
 - b. "Annual Income" shall mean the anticipated total income from all sources to be received by the household head and spouse and by each additional member of the household, including all net income derived from assets, for the twelve month period following the date of initial determination of income. The definitions and descriptions of income set forth in HUD regulations contained in 24 CFR 5.609 or any successor regulations shall apply for the purpose of determining Annual Income.
 - c. "Certificate" shall mean this Certificate of Incorporation.
 - d. "Corporation" shall mean _____
Housing Development Fund Corporation.
 - e. "HUD" shall mean the United States Department of Housing and Urban Development or its successors.
 - f. "Person Of Low Income" shall mean a household which, on the date of its initial occupancy, has an Annual Income that does not exceed the lesser of 120% of

AMI or such lower income as may be required at any time pursuant to an agreement with the Supervising Agency or with any other governmental agency or instrumentality.

- g. "PHFL" shall mean the Private Housing Finance Law.
 - h. "Supervising Agency" shall mean the Department of Housing Preservation and Development of the City of New York or its successor.
3. Purpose. The Corporation has been organized exclusively for the purpose of developing and operating a housing project for Persons Of Low Income, pursuant to PHFL §573.
4. Powers.
- a. Powers. The Corporation is empowered to do and perform all lawful acts necessary to accomplish the corporate purpose in accordance with this Certificate, the PHFL, and the Business Corporation Law, including, but not limited to, (i) purchasing or leasing the real property identified in this Certificate and [rehabilitating any multiple dwelling thereon] [constructing one or more new multiple dwellings thereon] [rehabilitating any multiple dwelling thereon or, with the consent of the Supervising Agency, constructing one or more new multiple dwellings thereon], (ii) the execution of such instruments and undertakings as may be required by any governmental body providing financial assistance to the Corporation, and (iii) making available to shareholders of the Corporation apartments, spaces, and facilities located in such property for residential purposes under leases commonly known as proprietary leases.
 - b. Proprietary Leases. All proprietary leases shall provide that shareholders of the Corporation (i) shall be entitled, solely by reason of their ownership of shares of the Corporation, to occupy such apartments, spaces, and facilities for residential purposes, pursuant to such proprietary leases, and (ii) shall occupy such apartments, spaces, and facilities as their primary residences.
 - c. Sales. Except as may be specifically authorized in writing by the Supervising Agency:
 - 1. The Corporation shall not cause or permit the transfer or issuance of shares and/or the assignment or issuance of any proprietary lease (i) to anyone other than a Person Of Low Income, or (ii) for a price that is not affordable to Persons Of Low Income, as determined in accordance with standards established by the Supervising Agency.
 - 2. The Corporation shall not cause or permit any dwelling unit to be leased to, subleased to, or occupied by anyone other than a shareholder who is a Person Of Low Income.
 - 3. Notwithstanding any provision of this Section 4.c to the contrary, up to one superintendent's unit in any building may be rented to and occupied by a superintendent for such building who is neither a shareholder nor a Person Of Low Income.

- d. Consent. The Corporation shall not engage in any act or activity requiring the consent or approval of any governmental entity or official without such consent or approval first being obtained.
5. Office. The office of the Corporation is to be located in the County of _____ in the City and State of New York.
6. Project. The housing project is to be located on Lot(s) _____, in Block(s) _____, in the Borough of _____, City and State of New York, said site [having the street address _____, New York _____.] [being bounded by the following streets: _____.]
7. Non-Profit. The Corporation is not organized for pecuniary profit or financial gain. All income and earnings of the Corporation shall be used exclusively for corporate purposes, and no part of the net income or net earnings of the Corporation shall inure to the benefit or profit of any private individual, firm, corporation, or association, including, but not limited to, any member, director, trustee, officer, or employee of the Corporation, or any other individual, firm, association, or entity. Nothing herein shall prohibit the Corporation from paying reasonable compensation to salaried employees.
8. No Dividends. The Corporation shall not pay any dividends on voting stock.
9. Seed Loans. If the Corporation receives a temporary loan or advance from the housing development fund or a municipal housing development fund, as established by or pursuant to Article XI of the PHFL:
- a. The Corporation shall be authorized to enter into an agreement with the Supervising Agency providing for regulation with respect to rents, profits, dividends, and disposition of the property or franchises; and
 - b. The Supervising Agency shall have the power, if, in its discretion, it determines either that any such temporary loan or advance is in jeopardy of not being repaid, or that the proposed housing project for which such temporary loan or advance was made is in jeopardy of not being constructed, to appoint to the board of directors of the Corporation a number of new directors, which number shall be sufficient to constitute a majority of such board, notwithstanding any other provision of this Certificate or of any other provision of law.
10. Sale of Assets. The Corporation shall not sell, transfer, or assign or contract to sell, transfer, or assign all or substantially all of its assets, or any of its real property, without the prior written approval of the Supervising Agency.
- a. Proceeds. The Corporation shall either deposit the proceeds of any such sale with the Supervising Agency or shall devote such proceeds to a housing project for Persons Of Low Income in a manner approved in writing by the Supervising Agency.
 - b. Leasing. The Corporation shall not lease or contract to lease any of its real property, other than a lease for a term not exceeding two (2) years of an individual dwelling unit or an individual commercial unit, without the prior written

approval of the Supervising Agency.

11. Enforcement. If the Supervising Agency determines, in its discretion, that the Corporation has violated any of the provisions of this Certificate or has defaulted on any agreement between the Corporation and the Supervising Agency or another governmental entity, the Supervising Agency may appoint to the board of directors of the Corporation a number of new directors (who need not be shareholders), which number shall be sufficient to constitute a majority of such board, notwithstanding any other provision of this Certificate, the by-laws of the Corporation or any agreement entered into by the Corporation.
12. No Propaganda. Nothing contained in this Certificate shall authorize the Corporation to carry on propaganda or otherwise attempt to influence legislation, or to participate in, or intervene in (including publishing or distributing statements) any political campaign on behalf of any candidate for public office.
13. Amendment
 - a. This Certificate shall not be altered or amended without (i) the prior written approval of the Supervising Agency, (ii) the prior written approval of any governmental entity which holds a mortgage or other lien on any assets of the Corporation or to which any indebtedness of the Corporation is then outstanding or a certification by the board of directors of the Corporation that there is no such mortgage, lien, or indebtedness, and (iii) the affirmative vote of sixty-six and two-thirds percent (66 2/3%) of all shareholders.
 - b. Such consents or certifications shall be attached to the certificate of amendment, or any other document seeking to effectuate the amendment or alteration of this Certificate which the Corporation files with the Department of State.
14. Dissolution
 - a. The Corporation shall not be dissolved or reconstituted without (i) the prior written approval of the Supervising Agency, (ii) the prior written approval of any governmental entity which holds a mortgage or other lien on any assets of the Corporation or to which any indebtedness of the Corporation is then outstanding or a certification by the board of directors of the Corporation that there is no such mortgage, lien, or indebtedness, and (iii) the affirmative vote of sixty-six and two-thirds percent (66 2/3%) of all shareholders.
 - b. Such consents or certifications shall be attached to the certificate of dissolution, or any other document seeking to effectuate the dissolution or reconstitution of the Corporation which the Corporation files with the Department of State.
15. Notice. A copy of this Certificate and a copy of the filing receipt issued by the Department of State, Division of Corporations, and a statement of the blocks and lots of real property owned and/or controlled by the Corporation, shall be delivered to the General Counsel of the Supervising Agency and to the Real Property Assessments Bureau of the City of New York Department of Finance when such filing receipt is received, or, if no such real property is owned by the Corporation at the time of filing, upon the acquisition of any such real property by the Corporation.

16. Service of Process. The Secretary of State is hereby designated by the Corporation as agent upon whom process against it may be served. The post office address of the Corporation to which the Secretary of State shall mail a copy of any process against the Corporation served upon him or her is

17. Shareholders. The housing project of the Corporation shall be operated exclusively for the benefit of the persons or families who are entitled to occupancy in such housing project by reason of ownership of shares in such Corporation. The Corporation may, with the prior written approval of the Supervising Agency, issue shares for home owners purchase notes if the purchase transaction has received the written endorsement of the Commissioner of Housing and Community Renewal in accordance with supplementary rules and regulations of the commissioner made therefor and if at least two hundred dollars (\$200) in money or property is received by the Corporation toward the issuance of such shares.

18. Stock. The Corporation is authorized to issue only one class of stock. The total number of shares which the Corporation shall have authority to issue is _____, with a par value of \$\$1.00 per share.

19. Voting. At every meeting of the shareholders including the elections of directors of the Corporation, each shareholder present, either in person or by proxy, shall be entitled to cast one vote on each question without regard to the number of shares held by the shareholder. No shareholder shall be eligible to vote or to serve on the Board of Directors who is shown on the books or management accounts of the Corporation to be delinquent in the payment of two months maintenance or rent, additional rent or user charges due the Corporation pursuant to such shareholder's proprietary lease and to have failed to cure such delinquency within sixty days after the due date of such maintenance or rent, additional rent or user charges for the first such month or is otherwise in default of a material obligation under the proprietary lease.

20. Directors.

a. Number. The number of directors of the Corporation shall be set in the by-laws of the Corporation but shall be not less than three. Each director shall be at least eighteen years of age, a shareholder of the Corporation, and currently occupying an apartment pursuant to a proprietary lease from the Corporation as his or her primary residence. The names and residences of the directors of the Corporation until the first annual meeting are:

Name

Address

b. Capacity. Each of the Incorporators whose signatures appear below is at least

eighteen (18) years of age.

- c. Annual Meetings. There shall be an annual meeting of the shareholders of the Corporation during the month of January or such other month as shall be established in the by-laws of the Corporation. The annual meeting shall be held at such day, time, and location as may be determined by the board of directors of the Corporation and specified in the meeting notice. A copy of the meeting notice shall be served upon each shareholder of record, either personally or by regular mail, not less than fifteen nor more than sixty days before the annual meeting.
 - 1. At the annual meeting, the shareholders of the Corporation shall elect the directors of the Corporation. Each director elected at an annual meeting shall serve for a term of one year, which term shall expire on the date of the next annual meeting. Each director elected to fill a vacancy which occurs between annual meetings shall serve for a term which shall expire on the date of the next annual meeting.
 - 2. At the annual meeting, the Corporation may transact such other business as shall be determined by the board of directors of the Corporation in accordance with the by-laws of the Corporation.
- 21. Approvals and Consents. Annexed hereto or endorsed hereon are copies of all approvals and consents required by PHFL §573(5) for filing of this Certificate by the Secretary of State.

IN WITNESS WHEREOF, the undersigned have duly executed this Certificate and affirm that the statements contained herein are true under the penalties of perjury this _____ day of _____, 200_.

Print Name and Address

Signature

Uniform Acknowledgment

State of New York)
) ss.:
County of _____)

On the _____ day of _____ in the year ____ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s(he) executed the same in her(his) capacity, and that by her(his) signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public