

2023-436

HARRIS BEACH PLLC
ATTORNEYS AT LAW

September 15, 2023

445 HAMILTON AVENUE, SUITE 1206
WHITE PLAINS, NY 10601
(914) 683-1200

MICHAEL V. CURTI
MEMBER
DIRECT: 914.298.3026
FAX: 914.683.1210
MCURT@HARRISBEACH.COM

TAX AGREEMENT

VIA FEDERAL EXPRESS

#783816620965

Ms. Lynette Thomas-Braggs, Assessor
Assessment Department
Yonkers City Hall
40 South Broadway, Room 100
Yonkers, New York 10701

Re: Monastery Manor Associates, L.P. and City of Yonkers Industrial Development
Agency: Tax Agreement and NYS Form RP-412-a, "Application for Real
Property Tax Exemption"
Section 2, Lot 2174, Lot 200, City of Yonkers, New York

Dear Ms. Thomas-Braggs:

On behalf of the City of Yonkers Industrial Development Agency, I have enclosed for you, the Assessor of the jurisdiction within which the above-referenced Premises is located, a completed and signed original "Amended and Restated Application for Real Property Tax Exemption" on NYS Form RP-412-a with a copy of the underlying executed Amended and Restated Tax Agreement, which extends the term of the original Tax Agreement by a period of an additional seven (7) years.

Should you have questions, please contact me at (914) 298-3026. Thank you.

Very truly yours,

Michael V. Curti

Michael V. Curti

Enclosures

cc: Affected Taxing Jurisdiction Officials
indicated on Schedule A attached hereto (w/encs. – copies)

Schedule A

Via Certified Mail

#70190700000113757754

The Honorable George Latimer
Westchester County Executive
148 Martine Avenue, 9th Floor
White Plains, New York 10601

Via Certified Mail

#70190700000113757761

County Attorney
Westchester County Attorney's Office
Contracts and Real Estate Bureau
148 Martine Avenue, 6th Floor
White Plains, New York 10601

Via Certified Mail

#70190700000113757778

Westchester County Tax Commission
Attn: Executive Director
110 Dr. Martin Luther King Jr. Blvd.
Room L-222
White Plains, New York 10601

Via Certified Mail

#70190700000113757785

Yonkers Corporation Counsel
Yonkers City Hall
40 South Broadway #300
Yonkers, New York 10701

Via Certified Mail

#7019070000011375

Chairman Vedat Gashi
Westchester County Board of Legislators
148 Martine Avenue, 8th Floor
White Plains, New York 10601

Via Certified Mail

#70190700000113757815

Westchester County Department of Finance
Attn: Commissioner of Finance
148 Martine Avenue, Suite 720
White Plains, New York 10601

Via Certified Mail

#70190700000113757822

The Honorable Michael Spano
Mayor of the City of Yonkers
Yonkers City Hall
40 South Broadway, Room 200
Yonkers, New York 10701

Via Certified Mail

#70190700000113757846

Assessment Department
Yonkers City Hall
40 South Broadway, Room 100
Yonkers, New York 10701
Attn: Assistant Assessor



NYS DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

RP-412-a (1/95)

INDUSTRIAL DEVELOPMENT AGENCIES
APPLICATION FOR REAL PROPERTY TAX EXEMPTION
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. INDUSTRIAL DEVELOPMENT AGENCY (IDA) **2. OCCUPANT (IF OTHER THAN IDA)**
(If more than one occupant attach separate listing)

Name City of Yonkers Industrial Development Agency
Street 470 Nepperhan Ave., Suite 200
City Yonkers, NY 10701
Telephone no. Day (914) 509-8659
Evening () _____
Contact Jaime McGill
Title Executive Director

Name Monastery Manor Associates LP
Street 2 Father Finian Sullivan Drive
City Yonkers, NY 10703
Telephone no. Day (914) 393-5005
Evening () _____
Contact James J Landy
Title President

3. DESCRIPTION OF PARCEL

- a. Assessment roll description (tax map no./roll year) Section 2, Block 2174, Lot 200
- b. Street address 2 Father Finian Sullivan Drive
- c. City, Town or Village City of Yonkers
- d. School District Yonkers Public Schools
- e. County Westchester
- f. Current assessment _____
- g. Deed to IDA (date recorded; liber and page) Lease to IDA pending

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

- a. Brief description (include property use) Existing affordable senior housing facility containing 147 residential units and related amenities.
- b. Type of construction n/a - already constructed
- c. Square footage unavailable
- d. Total cost n/a - already constructed
- e. Date construction commenced Constructed in 1982
- f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA) December 31, 2042

5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION

(Attach copy of the agreement or extract of the terms relating to the project).

- a. Formula for payment See attached Amended and Restated Tax Agreement.
- b. Projected expiration date of agreement December 31, 2042

c. Municipal corporations to which payments will be made

	Yes	No
County <u>Westchester</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Town/City <u>Yonkers</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Village <u>Not applicable</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
School District <u>Yonkers</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Person or entity responsible for payment

Name Monastery Manor Associates LP
 Title James J Landy, President
 Address 2 Father Finian Sullivan Drive
Yonkers, NY 10703

e. Is the IDA the owner of the property? Yes No (check one)

If "No" identify owner and explain IDA rights or interest Telephone 914 393 5005
 in an attached statement. *NO - IDA HAS A LEASEHOLD INTEREST IN THE PROPERTY*

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 RPTL Sec. 412-a/GML Sec. 874 assessment roll year 2006 to present

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

CERTIFICATION

I, Marlyn Anderson, Secretary of _____ of _____
 Name Title
City of Yonkers Industrial Development Agency hereby certify that the information
 Organization

on this application and accompanying papers constitutes a true statement of facts.

September 7, 2023
 Date

Marlyn Anderson
 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

CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY

AND

MONASTERY MANOR ASSOCIATES, L.P.

AMENDED AND RESTATED TAX AGREEMENT

Dated as of September 13, 2023

Affected Tax Jurisdictions:

Westchester County
City of Yonkers

Street Address:

2 Father Finian Sullivan Drive
City of Yonkers
Westchester County, New York

Tax Map No.:

Section: 2
Block: 2174
Lot: 200

AMENDED AND RESTATED TAX AGREEMENT

THIS AMENDED AND RESTATED TAX AGREEMENT (the "Agreement"), dated as of September 13, 2023, by and between **CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York, with its offices located at 470 Nepperhan Avenue, Suite 200, Yonkers, New York 10701 (the "Agency") and **MONASTERY MANOR ASSOCIATES, L.P.**, a New York limited partnership, having offices at 2 Father Finian Sullivan Drive, Yonkers, New York 10703 (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, the Company, for itself or on behalf of an entity to be formed submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition or retention of the land commonly known as 2 Father Finian Sullivan Drive (Section 2, Block 2174, Lot 200), Yonkers, New York, as more particularly described in Exhibit A hereto (the "Land"); (ii) the construction, renovation, improving, maintaining and equipping on the Land of a multi-story facility containing approximately 147 residential rental units and ground floor office space (the "Improvements"); (iii) the acquisition and installation in and around the Land and Improvements of certain items of equipment and other tangible personal property (the "Equipment", which together with the Land and Improvements are the "Facility"); and

WHEREAS, the Facility was constructed with the proceeds from a loan made by the U.S. Department of Housing and Urban Development ("HUD") in 1982; and

WHEREAS, by Resolution adopted on September 7, 2005 (the "Bond Resolution"), the Agency authorized the issuance of its Tax-Exempt Revenue Bonds (Monastery Manor Associates, L.P. Project) Series 2005A Bonds in the original principal amount of \$9,500,000 (the "Bonds"); and

WHEREAS, in 2005, the combination of bonds, tax credits and a payment in lieu of taxes agreement through the Agency, allowed the property to undertake improvements including a complete window replacement, new HVAC units, upgraded backflow preventer, upgraded heating system, enhanced security, updated elevator cab and controls, addition of emergency generator, replacement of all kitchen stoves and refrigerators, new cabinets in 50% of the units, new tile/toilets in all bathrooms, new carpeting, fresh paint in all apartments and common areas, and steel framing in the parking lot (the "2005 Project"); and

WHEREAS, Finian Sullivan Corp. (“FSC”), the sole member of the general partner in the Company, is now pursuing a refinancing of the Project, in order to extend the affordability of the property and to create cashflow to finance further upgrades to the Facility; and

WHEREAS, FSC now desires to redeem the Bonds and terminate the 2005 Bond Documents (as defined in the Project Agreement); and

WHEREAS, the Tax Agreement, dated September 1, 2005, as amended and restated in its entirety by this Agreement will not be terminated; and

WHEREAS, the Tax Agreement is being extended for a period of up to seven (7) years, due to the refinancing bank’s lending requirements; and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to hold a leasehold interest in the Land, Improvements and Equipment constituting the Facility pursuant to the terms and conditions contained in that certain Lease Agreement, dated as of September 13, 2023, by and between the Agency and the Company (the “Lease Agreement”); and

WHEREAS, the Agency proposes to lease the Facility back to the Company, and the Company desires to rent the Facility from the Agency, upon the terms and conditions hereinafter set forth in that certain Leaseback Agreement, dated as of September 13, 2023, by and between the Agency and the Company (the “Leaseback Agreement”); and

WHEREAS, the Agency has determined that continuing to provide “financial assistance” as that term is defined in the Act) to the Facility will accomplish, in part, its public purposes; and

WHEREAS, the Company has agreed with the Agency, on behalf of the Agency and as the Agency's agent, to acquire, construct and equip the Facility in accordance with the Application filed with the Agency; 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 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 Tax Agreement as billed by the respective third parties; 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 Westchester County and the City of Yonkers, inclusive of the City of Yonkers Dependent 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, it is mutually agreed as follows:

Section I - Payment in lieu of Ad Valorem Taxes.

Section 1.1 Exemption Application. A.) Subject to the completion and filing by the Agency or its designee at the direction of the Agency on or before the taxable status date **October 15, 2023** (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 for the periods set forth in Section 1.3. For purposes of the foregoing, "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the County and City, including Real Estate Taxes levied by the City for its Dependent School District. The Company shall provide 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 Leaseback 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, specifically including but not limited to Real Estate Taxes for years prior to and after the tax years covered by this Tax Agreement. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. 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.) Agreement to Make Payments. The parties agree and acknowledge that payments made under this Agreement 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 to the Agency, on or before January 1 ("Payment Date") a Tax Payment (as hereinafter defined) of each calendar year beginning on January 1, 2006 (for the benefit of the Affected Tax Jurisdictions), as a payment in lieu of tax, for the periods described in Section 1.3.

All Tax Payments shall be mailed to the Agency at: 470 Nepperhan Avenue, Suite 200, Yonkers, New York 10701, or as otherwise directed by the Agency. The Company hereby agrees to make all such Tax Payments without further notice or invoice from the Agency or the Affected Tax Jurisdictions. All checks shall be made payable as directed by the Agency from time to time.

(i) Tax Payment. For purposes of this Agreement, each "Tax Payment" shall be an amount equal to Shelter Rent multiplied by the "Tax Payment Factor":

- a. for County tax years 2006 through 2035 and City tax years 2006-2007 through 2034-2035, the Tax Payment Factor shall be three and one half percent (3.50%); and
- b. for County tax years 2036 through 2042 and City tax years 2035-2036 through 2041-2042, the Tax Payment Factor shall be the percentage(s) set forth in Schedule A.

The term "Shelter Rent" shall mean net rental income received by the Company for the rental of the Residential Units for the calendar year in which the Tax Payment is due less Utility Expenses. The term "Utility Expenses" shall mean all utility and certain insurance charges incurred by the Company for operations at the Facility for the calendar year in which the Tax Payment is due; including, but not limited to, gas, water, sewer, electric and property insurance. Utility Expenses shall not include any utility or related costs incurred by any tenants residing at the Facility. Notwithstanding the foregoing or any other provision contained herein or in the Company Lease Agreement, the Company shall make a minimum Tax Payment on each Payment Date in an amount equal to \$40,000 and thereafter shall pay the balance of the Tax Payment due to the Agency on or before April 1.

(ii) Company Certificate. The Company shall submit with each Tax Payment a certificate executed by the Company's chief financial officer or other similar officer showing the Company's calculation of the Tax 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. 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.

(iii) The Company hereby waives any and all rights it may have to any refund of prior tax payments for the periods prior to the periods described in Section 1.3.

(iv) The Agency and the Company have established a schedule of Tax Payments, that are in lieu of real estate taxes with respect to the Facility that, absent a default by the Company or a change in law, shall provide tax certainty for the Company and revenue certainty for the Affected Tax Jurisdictions. The parties hereto acknowledge that the Company shall have all of the rights and remedies of a taxpayer, including the right to institute a grievance with respect to Real Estate Taxes as provided below. The Company hereby agrees for the benefit of the Affected Tax Jurisdictions to not seek a refund of any taxes paid or to be paid for periods prior to the periods described in Section 1.3.

(v) Right to Grieve Assessed Value of the Property for Purposes of Calculating Full Taxes. Notwithstanding the foregoing, the Company shall have the right to institute a

judicial or other review of the assessed value of the Facility, whether pursuant to the provisions of Article 7 of the RPTL or other applicable law, as the same may be amended from time to time; provided, however, that no such judicial or other review or settlement thereof shall have any effect on the Company's obligations under this Agreement, including, without limitation, the Company's obligation to make the Tax Payments when due. Such judicial or other review shall only be for purposes of setting the assessed value of the Facility as though the Facility was on the tax rolls of each Affected Tax Jurisdiction as taxable real property, but shall have no effect on the other terms of this Agreement or the tax-exempt status of the Facility during the term of this Agreement. Furthermore, the Company shall not seek a refund of any Tax Payments or taxes paid or to be paid and expressly waives and releases its right to seek such refund.

(vi) Right to Grieve Assessed Value of the Property for Purposes of Calculating Special Charges. At any time during the term of this Agreement, the Company shall only be entitled to institute a grievance which would cause an adjustment of the Special Charges (as defined in Section 2.1) and the Company shall be limited to the right to refunds related to grievances involving Special Charges.

(vii) Except as set forth herein, the Tax Payments shall not be contested, grieved or refuted during and for the term of this Agreement and the Company shall not seek a refund of any taxes paid or to be paid.

(viii) Allocation. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder, if any, within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as taxes would have been allocated but for the Agency's involvement, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.2 Valuation of Future Additions to the Facility. If there shall be a future addition to the Facility that has not been described in the Application constructed or added in any manner after the date of this Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). 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 Tax Payment. The Agency shall notify the Company of any proposed increase in the Tax 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 increased Tax Payment until a different Tax Payment shall be established. If a lesser Tax Payment is determined in any proceeding or by subsequent agreement of the parties, the Tax 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 Tax Payment(s).

1.3 Period of Benefits.

The tax benefits provided for herein shall be deemed to include: (i) the 2006 County tax year through the 2043 County tax year and (ii) the 2006-2007 City tax year through the 2041-2042 City tax year. **This Tax Agreement shall expire on December 31, 2042** (with the understanding that the Company will be making a payment hereunder for the 2043 County tax year and the 2042-2043 City tax year in the amounts as if the Agency were not in title on the tax lien 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"); 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.

1.4 **Creation of Additional Tax Lots.** The Parties hereto acknowledge and agree that the Company may seek to divide the Facility into additional tax lots. The mere division of the Facility into additional tax lots, without further improvements, shall not be deemed to add or decrease the overall assessed value of the Facility, such that the creation of said tax lots shall neither increase, nor decrease the Tax Payments set forth herein or the provision of additional "financial assistance", as such term is defined in the Act.

Section II - Special District Charges, Special Assessments and other charges.

2.1 *Special District Charges and other payments:* Special district charges, special assessments, special ad valorem levies specifically including but not limited to charges imposed by the City of Yonkers for frontage feet ("CC001"); Housing Units ("CC002"); ETPA Charge ("CC003"); and a Safety Inspection Fee ("CC004") and district charges including but not limited to pure water charges and Westchester County sewer district charges (collectively the "Special Charges"), are not included in the amount of the Tax Payment and are to be paid in full in accordance with normal billing practices.

Section III - Transfer of Facility.

3.1 In the event 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 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 with respect to any Special Charges as if and to the same extent as if the Company were the owner of the Facility.

4.2 The Company shall file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers and provide information to the Agency as requested from time to time.

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 to: (i) make the payments described in Section I within forty five (45) 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; or (iii) the occurrence and continuance of any events of default under the Leaseback Agreement after the expiration of 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 Date, 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 defined in Section 6.1 herein, 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.

6.3 Prior to exercising any remedy hereunder, any Lender, as defined in the Leaseback Agreement dated the date hereof, between the Agency and the Company, shall be served a copy of any and all notices of default and afforded the cure rights set forth in such section, as if such section were set forth in full herein. Any Lender shall, after notice to the Lender of such default, have the right to cure or cause to be cured the default complained of and the Agency shall accept such performance by or at the instigation of such Lender as if same had been done by the Company.

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, except that an assignment to a Related Person, as such terms are defined in the Leaseback Agreement shall require prior notice to, but not prior written consent of, the Agency.

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 Notices. All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered and, if delivered by mail, shall be sent by certified mail, postage prepaid, or to a nationally recognized courier such as Federal Express, addressed as follows:

To the Agency: City of Yonkers Industrial Development Agency
470 Nepperhan Avenue, Suite 200
Yonkers, New York 10701
Attention: President/CEO

With Copy To: Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Attention: Shawn M. Griffin, Esq. and Michael V. Curti, Esq.

To the Company: Monastery Manor Associates, L.P.
2 Father Finian Sullivan Drive
Yonkers, New York 10703
Attention: James J. Landy

With Copy To: Cannon Heyman & Weiss, LLP
726 Exchange Street, Suite 500

Buffalo, New York 14210
Attention: Christopher N. Ollinick, 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. Any notice hereunder may be given by counsel for a party with the same force and effect as if given by such party.

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 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.

[The Balance of This Page Intentionally Left Blank]

[Signature Page to Tax Agreement]

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

**CITY OF YONKERS INDUSTRIAL
DEVELOPMENT AGENCY**

By: Marlyn Anderson
Name: Marlyn Anderson
Title: Secretary

MONASTERY MANOR ASSOCIATES, L.P.

By: Monastery Manor GP, LLC,
its general partner

By: Finian Sullivan Corporation,
its sole member

By: _____
Name: James J. Landy
Title: President

[Signature Page to Tax Agreement]

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

**CITY OF YONKERS INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____

Name: Marlyn Anderson

Title: Secretary

MONASTERY MANOR ASSOCIATES, L.P.

By: Monastery Manor GP, LLC,
its general partner

By: Finian Sullivan Corporation,
its sole member

By:  _____

Name: James J. Landy

Title: President

SCHEDULE A

to
Amended and Restated Tax Agreement
Dated as of September 13, 2023
by and between
City of Yonkers Industrial Development Agency
and
Monastery Manor Associates, L.P.

Pursuant to the terms of Section 1.1 of this Tax Agreement, "Tax Payment Factor" shall mean for the period designated:

City Tax Year	County Tax Year	Tax Agreement Year	Tax Payment Factor
2035-2036	2036	31	4.50%
2036-2037	2037	32	5.00%
2037-2038	2038	33	5.50%
2038-2039	2039	34	6.00%
2039-2040	2040	35	6.50%
2040-2041	2041	36	7.00%
2041-2042	2042	37	7.50%

EXHIBIT A

Legal Description of the Lands

SCHEDULE A
DESCRIPTION OF PREMISES

ALL that certain plot, piece or parcel of land, situate, lying and being in the City of Yonkers, County of Westchester and State of New York, known and designated as Lots Nos. 240, 241, 242, 243, 244, 245, 250, 251, 252, 253, 254, together with all lands lying in bed of former Glenwood Avenue, which is adjacent to Lots Nos. 240, 241, 242, 243, 244 and 245 as shown on a certain map entitled "Map of land in the City of Yonkers, property of the Yonkers Land Improvements Co., New York", made by Geo. C. Hollerith, C.E. (undated) and filed in the Westchester County Clerk's Office, Division of Land Records on February 20, 1894, as Map No. 1105 and Lots Nos. 44, 45, 46, 47, 48, 49, 50 and 51 on a certain map entitled "Map of 51 Lots formerly belonging to the Estate of Sampson Simon, deceased, situate in the City of Yonkers, County of Westchester, New York" made by Elwood H. Loder, C.E. & S., dated May 21, 1928 and filed in the Westchester County Clerk's Office, Division of Land Records on July 13, 1928, in Volume 67 of Maps at page 86 and Lots Nos. 167 and 169 on a certain map entitled "Map of Land in the City of Yonkers, belonging to Charles E. Waring, Esq., formerly of the estate of Sampson Simon, Esq.," by William Henry Baldwin, C.E., dated February 25, 1876 and filed in the Westchester County Clerk's Office, Division of Land Recorded on April 22, 1876 in Volume 5 of Maps at page 37, which lots and lands lying in the bed of former Glenwood Avenue, adjacent thereto, when taken together are more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Vineyard Avenue, where the same is intersected by the dividing line between Lots Nos. 254 and 255 on said Map No. 1105, said point being distant southerly 299.96 feet from the intersection of the said easterly side of Vineyard Avenue with the southwesterly side of Father Finian Sullivan Drive, as presently laid out (formerly Glenwood Avenue as shown on said Map in Volume 67 of Maps at page 86);

RUNNING THENCE along the easterly side of Vineyard Avenue and along the westerly lines of Lots Nos. 254, 253, 252, 251, 250 and 240 and across the lands lying in the bed of former Glenwood Avenue, as shown on Map No. 1105 and the westerly line of Lot No. 44 as shown on said Map in Volume 67 of Maps at page 86, North 27 degrees 45 minutes 00 seconds East, 299.96 feet to the intersection of the said easterly side of Vineyard Avenue with the southeasterly side of Father Finian Sullivan Drive, as presently laid out (formerly Glenwood Avenue as shown on Map in Volume 67 of Maps at page 86);

RUNNING THENCE along the southeasterly side of said Father Finian Sullivan Drive and along the northwesterly line of Lots Nos. 44, 45, 46, 47, 48, 49, 50 and 51 as shown on said Map in Volume 67 of Maps at page 86, North 66 degrees 30 minutes 55 seconds East, 303.64 feet to the southeasterly line of Lot No. 51, as shown on said map in Volume 67 of Maps at page 86;

RUNNING THENCE along the southeasterly line of Lot No. 51 and the southeasterly line of Lot No. 50 and a portion of the southeasterly line of Lot No. 49, as shown on said Map in Volume 67 of

Maps at page 86, South 27 degrees 47 minutes 10 seconds West, 150.26 feet;

RUNNING THENCE along the southeasterly line of Lot No. 49 and a portion of the southeasterly line of Lot No. 48 as shown on said map in Volume 67 of Maps of page 86, South 81 degrees 48 minutes 00 seconds West, 39.35 feet to a point;

RUNNING THENCE across the lands lying in the bed of former Glenwood Avenue, as shown on said Map No. 1105 and along a portion of the easterly line of Lot 245, on said Map No. 1105, South 27 degrees 56 minutes 40 seconds West, 63.39 feet to a point where the easterly line of Lot No. 245, on said Map No. 1105 is intersected by the dividing line between Lots Nos. 169 and 171 on said Map in Volume 5 of Maps page 37;

RUNNING THENCE along the last mentioned dividing line, South 62 degrees 15 minutes 00 seconds East, 100.00 feet to the westerly side of Orchard Street, as shown on said Map in Volume 5 of Maps page 37;

RUNNING THENCE along said westerly side of Orchard Street, South 27 degrees 56 minutes 40 seconds West, 50.00 feet to the dividing line between Lots No. 165 and 167 on said Map in Volume 5 of Maps page 37;

RUNNING THENCE along the last mentioned dividing line, North 62 degrees 15 minutes 00 seconds West, 100.00 feet to a point where the easterly line of Lot No. 245 on said Map No. 1105 is intersected by the dividing line between Lots Nos. 165 and 167 on said Map in Volume 5 of Maps page 37;

RUNNING THENCE along the easterly line of Lot No. 245 on said Map No. 1105, South 27 degrees 56 minutes 40 seconds West, 125.00 feet to the southerly line of Lot No. 245 on said Map No. 1105;

RUNNING THENCE along the southerly line of Lot No. 245 on said Map No. 1105, North 62 degrees 15 minutes 00 seconds West, 25.00 feet to the easterly line of Lot No. 250 on said Map No. 1105;

RUNNING THENCE along the easterly line of Lot No. 250, 251, 252, 253 and 254 on said Map No. 1105, South 27 degrees 56 minutes 40 seconds West, 125.00 feet to the division line between Lots Nos. 254 and 255 on said Map No. 1105;

RUNNING THENCE along the last mentioned dividing line North 62 degrees 15 minutes 00 seconds West, 131.97 feet to the point or place of BEGINNING.