

HARRIS BEACH
ATTORNEYS AT LAW

January 28, 2021

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PITTSFORD, NY 14534
(585) 419-8800

RACHEL C. BARANELLO, ESQ.

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RBARANELLO@HARRISBEACH.COM

VIA FEDERAL EXPRESS

Hon. Adam Bello
Monroe County Executive
39 West Main Street, Suite 110
County Office Building
Rochester, New York 14614

Ms. Susan Buck
Monroe County Treasury
B-3 County Office Building
39 West Main Street
Rochester, New York 14614

Ms. Lovely Warren, Mayor
City of Rochester
City Hall, 30 Church Street
Rochester, New York 14614

Mr. Randy Webb
Bureau of Accounting
30 Church Street, Room 106-A
Rochester, New York 14614

Mr. Michael Zazzara, Assessor
City Hall, Room 101A
30 Church Street
Rochester, New York 14614

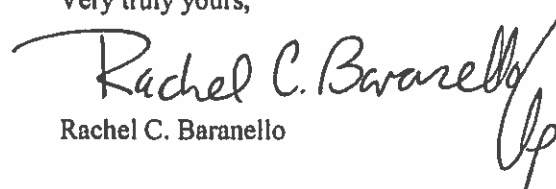
Dr. Lesli Myers-Small, Superintendent
Rochester City School District
131 West Broad Street
Rochester, New York 14614

Re: County of Monroe Industrial Development Agency ("COMIDA") and
93 Marsh Street, LLC;
93-109 Marsh Street in the City of Rochester, New York

Ladies and Gentlemen:

Enclosed herewith please find a copy of the Payment In Lieu of Tax Agreement and the Application for Real Property Tax Exemption with respect to the above-captioned matter. Also enclosed for your perusal are copies of the Memorandum of Lease and Memorandum of Leaseback which are being simultaneously sent to the Monroe County Clerk for recording.

Very truly yours,


Rachel C. Baranello

RCB/lap
Enclosures

cc: **COMIDA**
Matthew Denker
Gary Gianforti, Esq.

COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY

AND

93 MARSH STREET, LLC

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Street Address	Tax Map Number
101 Marsh Street	135.26-3-34.2
103 Marsh Street	135.26-3-34.3
105 Marsh Street	135.26-3-34.4
107 Marsh Street	135.26-3-34.5
109 Marsh Street	135.26-3-34.6

Affected Tax Jurisdictions:

County of Monroe
City of Rochester

Dated as of January 1, 2021

PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT (the "PILOT Agreement") made as of January 1, 2021, is by and between the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, having its offices at 50 West Main Street, Rochester, New York 14614 (the "Agency"), and **93 MARSH STREET, LLC**, a limited liability company duly formed and validly existing under the laws of the State of New York with offices at 399 Ames Street, Rochester, New York 14611 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 55 of the Laws of 1972 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 has requested the Agency to assist in a certain project (the "Project") consisting of: (A) the acquisition of a leasehold or other interest in an approximately 0.40-acre parcel of land located at 93-109 Marsh Street in the City of Rochester, New York (the "Land"); (B) the construction on the Land of five (5) attached townhomes, each with between 952 and 975 square feet of space with 2 bedrooms and 1.5 baths (collectively, the "Improvements"); and (C) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the "Equipment" and, together with the Land and the Improvements, the "Facility"), for sale to persons who will own and occupy a townhome as their principal place of residence ("Owner/Occupant"); and

WHEREAS, the Agency has agreed to lease the Facility to the Company; and

WHEREAS, each Owner/Occupant will be required to execute an addendum to this PILOT Agreement substantially in the form attached hereto as Exhibit A; and

WHEREAS, in order to induce the Company to acquire, construct and equip the Facility, the Agency is willing to take a leasehold interest in the Land and the Facility pursuant to a certain Lease Agreement, dated as of January 1, 2021 (the "Lease Agreement"), and thereafter lease said Facility back to the Company pursuant to the terms and conditions of a certain Leaseback Agreement, dated as of January 1, 2021 (the "Leaseback 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 or under its jurisdiction, control or supervision 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 Project meets the criteria of the City of Rochester Choice Tax Abatement Policy (the "CHOICE Program") pursuant to City of Rochester Resolution No. 2019-16, a copy of which is attached hereto as Exhibit B; and

WHEREAS, the Agency, the Company and/or each Owner/Occupant deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by each Owner/Occupant to the County of Monroe (the "County") and the City of Rochester (the "City"; and, together with the County, 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 1 - Payment in Lieu of Ad Valorem Taxes.

Section 1.1 A. Subject to the completion and filing by the taxable status date (**February 1, 2021**) (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 (the "RPTL") 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, as provided in Section 1.5 hereof. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the County and City. 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 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. Payee. As long as the Facility is leased to the Agency or under its jurisdiction, control or supervision, the Company and/or an Owner/Occupant agrees to pay annually directly to the Affected Tax Jurisdictions, as a payment in lieu of taxes, within thirty (30) days of receipt of the invoice for payment of taxes, an amount equal to the Total PILOT Payment, as set forth on Schedule A attached hereto and made a part hereof. The Company and/or an Owner/Occupant shall remit payment to the applicable Affected Tax Jurisdiction in accordance with instructions provided on the respective invoice. The Company and/or an Owner/Occupant shall make all payments due hereunder without further notice or invoicing from the Agency, any Affected Tax Jurisdiction or any other party.

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 Allocation. If the Agency shall receive any amounts hereunder, the Agency shall remit such monies to the Affected Tax Jurisdictions 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, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.3 Tax Rates. For purposes of determining the allocation of the Total PILOT Payment among the Affected Tax Jurisdictions, the Affected Tax Jurisdictions shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County, City and special district purposes, the tax rates used to determine the allocation of the Total PILOT Payment shall be the tax rates relating to the calendar year which includes the Total PILOT Payment due date.

1.4 Valuation of Future Additions to the Facility. In the event that any structural addition shall be made to the building or buildings included in the Facility, or any additional building or improvement shall be constructed on the Land (such structural additions, buildings and improvements being referred to hereinafter as "Future Addition"), the Company agrees to make additional payments in lieu of taxes to the Affected Tax Jurisdictions in amounts equal to the then current ad valorem tax rates which would be levied upon or with respect to the Future Addition by the Affected Tax Jurisdictions if the Future Addition were owned by the Company exclusive of the Agency's leasehold interest multiplied by the assessment or assessments established for that tax year by the appropriate Taxing Jurisdiction.

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include nine (9) consecutive years commencing with the tax year immediately following the sale of a townhome, constituting a portion of the Facility, from the Company to an Owner/Occupant, pursuant to City of Rochester Resolution No. 2019-16. In no event shall the Company and/or Owner/Occupant 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 PILOT 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 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.

Section 2 - Special District Charges, Special Assessments and other Charges. 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.

Section 3 - Transfer of Facility. In the event that the Facility is transferred from the Agency to the Company (the lease/leaseback agreements are 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 1 herein, or this PILOT 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 4 - Assessment Challenges.

4.1 The Company and/or an Owner/Occupant shall have all of the rights and remedies of a taxpayer with respect to any proposed assessment or change in assessment of the Facility by any of the Affected Tax Jurisdictions. The Company and/or an Owner/Occupant 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 and/or an Owner/Occupant 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 and/or an Owner/Occupant is obligated to make a payment pursuant to this PILOT Agreement.

4.3 The Company and/or an Owner/Occupant 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, and (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

Section 5 - Changes in Law. 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 and/or an Owner/Occupant hereunder shall, to such extent, be null and void.

Section 6 - Events of Default.

6.1 If payments are not made as provided for herein, the Agency and/or Affected Tax Jurisdictions, individually or collectively, shall be entitled to pursue any and all remedies afforded them at law or in equity.

Notwithstanding anything contained herein to the contrary, upon the occurrence of (i) a significant unapproved change in use of the Facility; (ii) the failure by the Company and/or an Owner/Occupant to make any payments required under this PILOT Agreement; or (iii) the breach of covenants or event of default (singularly or collectively an "Event of Default") under the Leaseback Agreement, the Agency shall have the right to recapture real property tax abatements provided hereunder pursuant to the following schedule:

Year of Recapture	Percent of Recapture, Applicable to Current Year and All Prior Years
1	100%
2	100%
3	50%
4	50%
5	25%
6	25%
After year 6	At Agency's Discretion, 25% or Less

Any such recapture is at the sole and exclusive discretion of the Agency. The Agency shall notify the Company in writing of such Event of Default and of its intent to recapture the PILOT benefits (or any portion thereof). Any and all recaptured payments received pursuant to this provision shall be remitted to the Taxing Jurisdictions on a pro rata basis within sixty (60) days of receipt of payment.

6.2 If payments pursuant to Section 6.1 herein are not made by the due 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 6.1 herein, if said payment is not received by the due date 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 a late payment penalty, in an amount equal to one percent (1%) of the amount due per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, the Company shall pay, in addition to said payment, the greater of the applicable penalties and interest hereunder, or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

Section 7 - Assignment. Upon a sale by any Owner/Occupant of any townhome to another qualifying Owner/Occupant, this PILOT Agreement may be assigned to such Owner/Occupant who shall be entitled to succeed to and otherwise obtain all remaining benefits hereunder without the prior written consent of the Agency.

Section 8 - Miscellaneous.

8.1 This PILOT 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:

To the Agency: County of Monroe Industrial Development Agency
50 West Main Street
Rochester, New York 14614
Attn: Executive Director

With a Copy to: Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Attn: Rachel C. Baranello, Esq.

To the Company: 93 Marsh Street, LLC
399 Ames Street
Rochester, New York 14611
Attn: Matthew Denker, Managing Partner

With a Copy to: Gary Gianforti, Esq.
The Powers Building
16 West Main Street, Suite 757
Rochester, New York 14614

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 PILOT 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 Monroe 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 PILOT Agreement on its behalf shall be liable personally under this PILOT 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 PILOT Agreement.

Section 9 – Miscellaneous.


9.1 **Benefit Period.** In no event shall the Company and/or an Owner/Occupant be entitled to receive tax benefits relative to the Facility for more than nine (9) consecutive years.

9.2 **No Recourse.** 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 and/or Owner/Occupant. No member of the Agency nor any person executing this PILOT Agreement on its behalf shall be liable personally under this PILOT 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 to, 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 member, officer, agent, servant and employee 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 PILOT Agreement.

[Remainder of Page Intentionally Left Blank]

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

**COUNTY OF MONROE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Name: Ana J. Liss
Title: Executive Director

93 MARSH STREET, LLC

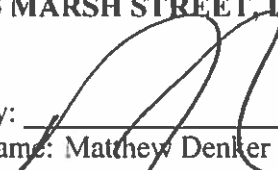
By: _____
Name: Matthew Denker
Title: Member and Manager

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

**COUNTY OF MONROE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Name: Ana J. Liss
Title: Executive Director

93 MARSH STREET, LLC

By:  _____
Name: Matthew Denker
Title: Member and Manager

SCHEDULE A TO
PILOT AGREEMENT DATED AS OF JANUARY 1, 2021
BY AND BETWEEN THE
COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY
AND 93 MARSH STREET, LLC

"Total PILOT Payment" shall be calculated as follows:

<u>Tax Year</u>	<u>Total Taxable Valuation</u>
Year 1	Base Valuation, plus (Added Value x .10)
Year 2	Base Valuation, plus (Added Value x .20)
Year 3	Base Valuation, plus (Added Value x .30)
Year 4	Base Valuation, plus (Added Value x .40)
Year 5	Base Valuation, plus (Added Value x .50)
Year 6	Base Valuation, plus (Added Value x .60)
Year 7	Base Valuation, plus (Added Value x .70)
Year 8	Base Valuation, plus (Added Value x .80)
Year 9	Base Valuation, plus (Added Value x .90)
Year 10	Full Taxes

For the term of this PILOT Agreement, the Company and/or an Owner/Occupant shall continue to pay full taxes based on the assessed value of the Land and any existing improvements before the completion of any Improvements (the "Base Valuation"). During the term of this PILOT Agreement, the Base Valuation shall be revised from time to time by the change in the assessed valuation in all taxable real property in the City of Rochester, Monroe County, New York, as of the respective tax status date for the tax year for which the recalculation is being made. The Total Taxable Valuation for each Total PILOT Payment shall be calculated such that a graduated abatement factor (the "Abatement Factor") shall be applied to the increased assessed valuation attributable to the Improvements made to the Facility by the Company, as an agent of the Agency, for the Project (the "Added Value"). The abatement schedule shall allow for a 90% exemption from taxation for the Added Value in Year 1, with such exemption being eliminated in 10% increments in PILOT Years 2-10.

Once the Total Taxable Valuation is established using the Abatement Factor, the Total PILOT Payment shall be determined by multiplying the Total Taxable Valuation by the respective tax rate for each Affected Taxing Jurisdiction (after application of any applicable equalization rate). After Year 9, the Facility shall be subject to full taxation by the Affected Tax Jurisdictions.

$$\text{Total Taxable Valuation} = \text{Base Valuation} + (\text{Added Value} \times \text{Abatement Factor})$$

$$\text{Total PILOT Payment} = \text{Total Taxable Valuation (after equalization)} \times \text{Tax Rate}$$

Exhibit A

**[FORM OF PILOT ADDENDUM]
((PURCHASER'S NAME))**

The City of Rochester's Core Housing Owner Incentive Exemption program ("CHOICE"), approved by Resolution No. 2019-16 of the City Council, offers property tax exemptions for the creation of market-rate owner-occupied residential units in the Center City District. It is the intent of the Rochester City Council to increase the number of owner/occupants living in the downtown area.

The County of Monroe Industrial Development Agency (the "Agency") and 93 Marsh Street, LLC (the "Company"), previously entered into a PILOT Agreement, dated as of January 1, 2021 (the "PILOT Agreement") in connection with the Company's residential project (the "Project"), located at [] in the City of Rochester, New York, to make provisions for payments in lieu of real property taxes to Monroe County, New York and the City of Rochester, New York (the "Affected Tax Jurisdictions").

The CHOICE program allows for the continued partial real property tax abatement for each individual townhome unit as long as that unit remains the purchaser's primary residence. See the attached Schedule A for a description of the abatement schedule.

The below named purchaser hereby certifies that the property commonly known as [Tax Account No. _____] of the [] townhomes is his/her primary residence and agrees to notify the City of Rochester's Bureau of Assessment and the Agency of any change in ownership. Subsequent Owner/Occupants are eligible in the event the townhome is sold within the term of the PILOT Agreement.

**COUNTY OF MONROE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Name: Ana J. Liss
Title: Executive Director

93 MARSH STREET, LLC

By: _____
Name: Matthew Denker
Title: Member and Manager

[PURCHASER]

By: _____
Purchaser of # _____ having
Tax Account No. _____

Exhibit B

[City of Rochester Resolution 2019-16]



City of Rochester

City Clerk's Office

Certified Resolution

Rochester, N.Y., _____

TO WHOM IT MAY CONCERN:

I hereby certify that at a meeting of the Council of the City of Rochester, held in the City Hall, on **November 12, 2019**, a resolution was **Adopted**, of which the following is a true copy; and at the time said resolution was adopted, the Council consisted of **Nine (9)** members.

Resolution No. 2019-16

Resolution extending the CHOICE Tax Abatement Program for Owner-Occupied Housing beyond Downtown

WHEREAS, the City has established and continued to facilitate the construction of new residential, owner-occupied units in the Center City Zoning District through the Downtown Tax Abatement Program for Owner-Occupied Housing, known as CHOICE and as set forth in Resolution Nos. 2007-14, 2012-15 and 2017-3;

WHEREAS, the City desires to extend the CHOICE tax abatement program beyond Downtown to the rest of the City and to limit the application of the abatement to no more than \$500,000 of increased assessed value for each eligible project; and

WHEREAS, the County of Monroe Industrial Development Agency (COMIDA) has approved a policy providing for tax abatements through the use of payment in lieu of tax agreements for qualified projects, upon the City's approval of such a policy.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Rochester as follows:

Section 1. The Council hereby approves the continuation by COMIDA of the CHOICE tax abatement policy, as modified herein, so as to use payment in lieu of tax agreements for qualified projects whereby newly constructed or renovated owner-occupied residential units in the City of Rochester will be eligible for a partial, nine year, real

property tax abatement applicable to the increase in assessed value which is attributed to the newly created owner-occupied residential units as follows:

Year	Abatement in Assessment Increase
1	90%
2	80%
3	70%
4	60%
5	50%
6	40%
7	30%
8	20%
9	10%
10	0%

provided, however, that the application of the abatement shall be limited to no more than a \$500,000 increase in assessed value for each eligible project.

Section 2. This resolution shall take effect immediately and shall remain in full force and effect until May 31, 2022.

Adopted by the following vote:

Ayes - President Scott, Councilmembers Clifford, Evans, Gruber, Harris, Lightfoot, Ortiz, Patterson, Spaul - 9.

Nays - None - 0.

Attest *Hazel Washington*
City Clerk



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)

Name County of Monroe Industrial Development Agency
Street 50 West Main Street, Suite 1150
City Rochester, New York 14614
Telephone no. Day (585) 419-8769
Evening ()
Contact Rachel C. Baranello
Title Agency Counsel

2. OCCUPANT (IF OTHER THAN IDA)

(If more than one occupant attach separate listing)

Name 93 Marsh Street, LLC
Street 399 Ames Street
City Rochester, New York 14611
Telephone no. Day (917) 755-2472
Evening ()
Contact Matthew Denker
Title Managing Partner

3. DESCRIPTION OF PARCEL

a. Assessment roll description (tax map no./roll year)
See Attached Schedule A
b. Street address
See Attached Schedule A
c. City, Town or Village Rochester (City)

d. School District Rochester City SD
e. County Monroe
f. Current assessment \$192,000
g. Deed to IDA (date recorded; liber and page)
Lease Agreement, a memorandum of which was
recorded on or about January 28, 2021.

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

a. Brief description (include property use) construction of five (5) attached townhomes
b. Type of construction
c. Square footage
d. Total cost \$832,397
e. Date construction commenced Fall/Winter 2020
f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA)
See Attached PILOT Agreement

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 PILOT Agreement
b. Projected expiration date of agreement See Attached PILOT Agreement

c. Municipal corporations to which payments will be made

	Yes	No
County <u>Monroe</u>	X	
Town/City <u>Rochester</u>	X	
Village _____		
School District _____		

d. Person or entity responsible for payment

Name 93 Marsh Street, LLC
 Title _____
 Address 399 Ames Street
Rochester, New York 14611

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. The IDA has a leasehold interest in the property.

Telephone 917-755-2472

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 Section 485-a of the NY assessment roll year _____
Real Property Tax Law

7. A copy of this application, including all attachments, has been mailed or delivered on 1/28/2021 (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

CERTIFICATION

I, Rachel C. Baranello, Agency Counsel _____ of _____
 Name Title
County of Monroe Industrial Development Agency hereby certify that the information
 Organization

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

1/28/2021
Date

Rachel C Baranello
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 FORM RP-412-a

<u>Street Address</u>	<u>Tax Map Number</u>
101 Marsh Street	135.26-3-34.2
103 Marsh Street	135.26-3-34.3
105 Marsh Street	135.26-3-34.4
107 Marsh Street	135.26-3-34.5
109 Marsh Street	135.26-3-34.6

**MEMORANDUM OF LEASE PURSUANT TO
SECTION 291-c OF THE REAL PROPERTY LAW
(Company to Agency)**

THIS MEMORANDUM, dated as of January 1, 2021 (the "Memorandum of Lease"), is by and between **93 MARSH STREET, LLC**, a limited liability company formed and existing under the laws of the State of New York with offices at 399 Ames Street, Rochester, New York 14611 (the "Company") and the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, having its offices at 50 West Main Street, Suite 1150, Rochester, New York 14614 (the "Agency").

1. Reference to Lease: That certain Lease Agreement, dated as of January 1, 2021 (the "Lease Agreement"), whereby the Company leases certain real property to the Agency.
2. Description of the Leased Premises: Certain real property and improvements located in the City of Rochester, Monroe County, New York, as more particularly described on **Schedule A** attached hereto (the "Leased Premises").
3. Term of Lease Agreement: Commencing January 1, 2021 and ending **December 31, 2031**.
4. Date of Commencement: January 1, 2021.
5. Date of Termination: December 31, 2031.
6. Rights of Extension or Renewal: None.
7. Lease Subordinate. The Lease Agreement (excepting the Agency's Unassigned Rights as set forth in the Leaseback Agreement) is subject and subordinate to (i) a certain Building Loan Mortgage and Security Agreement, dated on or about February 1, 2021, from the Company and the Agency to Evans Bank, N.A. (the "Mortgagee") which is intended to be recorded in the office of the Monroe County Clerk subsequent to the recording of this Memorandum; (ii) a certain related Conditional Assignment of Leases and Rents, dated the date of the Mortgage (the "Assignment"), between the Agency, the Company and the Mortgagee; and (iii) that certain Leaseback Agreement, dated as of January 1, 2021, between the Agency and the Company (the "Leaseback Agreement").

<u>Street Address</u>	<u>Tax Map Number</u>
101 Marsh Street	135.26-3-34.2
103 Marsh Street	135.26-3-34.3
105 Marsh Street	135.26-3-34.4
107 Marsh Street	135.26-3-34.5
109 Marsh Street	135.26-3-34.6

Record and Return to:
Harris Beach PLLC
Attention: Lori A. Palmer, Paralegal
County Clerk Box #18

IN WITNESS WHEREOF, the Company and the Agency have caused this Memorandum of Lease to be executed in their respective names, all as of the date first written above.

93 MARSH STREET, LLC

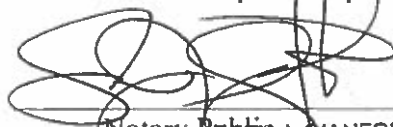
By: _____
Name: Matthew Denker
Title: Member and Manager

COUNTY OF MONROE INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Name: Ana J. Liss
Title: Executive Director

STATE OF NEW YORK
COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF Monroe) ss.:

On the 22ND day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Matthew Denker**, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public J. GIANFORTI
Notary Public, State of New York
Monroe County
My commission expires February 28, 2023

STATE OF NEW YORK)
COUNTY OF MONROE) ss.:

On the _____ day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Ana J. Liss**, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

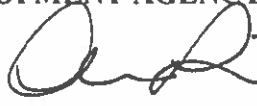
Notary Public

IN WITNESS WHEREOF, the Company and the Agency have caused this Memorandum of Lease to be executed in their respective names, all as of the date first written above.

93 MARSH STREET, LLC

By: _____
Name: Matthew Denker
Title: Member and Manager

COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY

By:  _____
Name: Ana J. Liss
Title: Executive Director

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF _____) ss.:

On the _____ day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Matthew Denker**, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF MONROE) ss.:

On the 21st day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Ana J. Liss**, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

LORI A. PALMER
Notary Public, State of New York
No. 01PA4848797
Qualified in Monroe County
Commission Expires May 31, 20 23

Schedule A

Legal Description of the Leased Premises

All that tract or parcel of land, situate in the City of Rochester, County of Monroe and State of New York, known and described as Lots Nos. 2, 3 and 4 on a map of a re-subdivision of a part of the Brooks Estate Subdivision as shown on a map filed in the Monroe County Clerk's Office in Liber 82 of Maps at page 8.

Said lots are 135 feet deep and together front 128 feet on the west side of Marsh Street.

More particularly described as follows:

All that tract or parcel of land situate in the City of Rochester, County of Monroe and State of New York, known and described as Marsh Subdivision, being part of Lots Nos. 2, 3 and 4 of St. Monica's Church re-subdivision as shown on a map filed in the Monroe County Clerk's Office in Liber 361 of Maps at page 14

BEGINNING AT A POINT that is the northeast corner of Lot 6 of the Marsh Subdivision; thence,

1. S 88°38' 07" W, along the northerly line of said subdivision, a distance of 135.00 feet to a point; thence,
2. S 00°39'53" E, along the westerly line of said subdivision a distance of 128.00 feet to a point; thence,
3. N 88°38'07" E, along the southerly line of said subdivision a distance of 135.00 feet to a point on the westerly right of way of Marsh Street (60' wide); thence,
4. N 00°39'53" W, along the westerly right of way line of Marsh Street, a distance of 128.00 feet to the POINT OF BEGINNING.

CONTAINING: 17,279 Sq. Ft. or 0.397 Acres of land more or less.

All as shown on a map prepared by McMahon LaRue Associates, P.C. entitled Marsh Subdivision and filed with the Monroe County Clerk On 8/17/20 in Liber 361 of Maps, Page 14.

MEMORANDUM OF LEASEBACK AGREEMENT
Section 291-c of the Real Property Law
(Agency to Company)

THIS MEMORANDUM, dated as of January 1, 2021 (the "Memorandum of Leaseback"), is by and between the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly organized and existing under the laws of the State of New York with offices at 50 West Main Street, Suite 1150, Rochester, New York 14614, as Lessor (the "Agency"), and **93 MARSH STREET, LLC**, a limited liability company formed and existing under the laws of the State of New York with offices at 399 Ames Street, Rochester, New York 14611, as Lessee (the "Company").

1. Reference to Leaseback: That certain Leaseback Agreement, dated as of January 1, 2021 (the "Leaseback Agreement"), whereby the Agency leases certain real property and improvements back to the Company.

2. Description of the Leased Premises: Certain real property and improvements located in the City of Rochester, Monroe County, New York, as more particularly described on Schedule A attached hereto (the "Leased Premises").

3. Term of Leaseback Agreement: Commencing January 1, 2021 and ending **December 31, 2031**.

4. Date of Commencement: January 1, 2021.

5. Date of Termination: December 31, 2031.

6. Rights of Extension or Renewal: None.

7. Leaseback Subordinate. The Leaseback Agreement (excepting the Agency's Unassigned Rights as set forth in the Leaseback Agreement) is subject and subordinate to (i) a certain Building Loan Mortgage and Security Agreement, dated on or about February 1, 2021 (the "Mortgage"), from the Company and the Agency to Evans Bank, N.A. (the "Mortgagee"), which is intended to be recorded in the office of the Monroe County Clerk subsequent to the recording of this Memorandum and (ii) a certain related Conditional Assignment of Leases and Rents, dated the date of the Mortgage (the "Assignment").

Street Address	Tax Map Number
101 Marsh Street	135.26-3-34.2
103 Marsh Street	135.26-3-34.3
105 Marsh Street	135.26-3-34.4
107 Marsh Street	135.26-3-34.5
109 Marsh Street	135.26-3-34.6

Record and Return to:

Harris Beach PLLC

Attention: Lori A. Palmer, Paralegal

County Clerk Box #18

IN WITNESS WHEREOF, the Agency and the Company have caused this Memorandum of Leaseback Agreement to be executed in their respective names as of the date first written above.

COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY

By: 
Name: Ana J. Liss
Title: Executive Director

93 MARSH STREET, LLC

By: _____
Name: Matthew Denker
Title: Member and Manager

STATE OF NEW YORK)
COUNTY OF MONROE) ss.:

On the 21st day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Ana J. Liss**, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF _____) ss.:

LORI A. PALMER
Notary Public, State of New York
No. 01PA4848797
Qualified in Monroe County
Commission Expires May 31, 2023

On the _____ day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Matthew Denker**, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

IN WITNESS WHEREOF, the Agency and the Company have caused this Memorandum of Leaseback Agreement to be executed in their respective names as of the date first written above.

COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Name: Ana J. Liss
Title: Executive Director

93 MARSH STREET LLC

By: _____
Name: Matthew Denker
Title: Member and Manager

STATE OF NEW YORK)
COUNTY OF MONROE) ss.:

On the ____ day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Ana J. Liss**, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF MONROE) ss.:

On the 22nd day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Matthew Denker**, 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 he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

GARY J. STANFORTI
Notary Public, State of New York
Monroe County
My commission expires February 28, 2022

Schedule A

Legal Description of Leased Premises

ALL THAT TRACT OR PARCEL of land situate in the City of Rochester, County of Monroe and State of New York, known and described as Marsh Subdivision, being part of Lots Nos. 2, 3 and 4 of St. Monica's Church re-subdivision as shown on a map filed in the Monroe County Clerk's Office in Liber 361 of Maps at page 14

BEGINNING AT A POINT that is the northeast corner of Lot 6 of the Marsh Subdivision; thence,

1. S 88°38' 07" W, along the northerly line of said subdivision, a distance of 90.53 feet to a point; thence,
2. S 01°21'53" E, along the westerly line of Lot 2 a distance of 50.00 feet to a point; thence,
3. N 88°38'07" E, along the southerly line of Lots 2, 3, 4, 5 and 6 a distance of 89.92 feet to a point on the westerly right of way of Marsh Street (60' wide); thence,
4. N 00°39'53" W, along the westerly right of way line of Marsh Street, a distance of 50.00 feet to the POINT OF BEGINNING.

CONTAINING: 7,622 Sq. Ft. or 0.103 Acres of land more or less.

All as shown on a map prepared by McMahon LaRue Associates, P.C. entitled Marsh Subdivision and filed with the Monroe County Clerk On 8/17/20 in Liber 361 of Maps, Page 14.