

August 10, 2022

22 0017  
**HARRIS BEACH** PLLC  
ATTORNEYS AT LAW

99 GARNSEY ROAD  
PITTSFORD, NY 14534  
(585) 419-8800

**RACHEL C. BARANELLO**

DIRECT: (585) 419-8769  
FAX: (585) 419-8816  
RBARANELLO@HARRISBEACH.COM

Hon. Adam J. Bello  
Monroe County Executive  
39 West Main Street, Suite 110  
County Office Building  
Rochester, New York 14614  
CERTIFIED MAIL RECEIPT#:  
9489 0090 0027 6389 9890 17

Ms. Susan Buck  
Monroe County Treasury  
B-3 County Office Building  
39 West Main Street  
Rochester, New York 14614  
CERTIFIED MAIL RECEIPT#:  
9489 0090 0027 6389 9890 24

Mr. Ciaran Hanna, Supervisor  
Perinton Town Hall  
1350 Turk Hill Road  
Fairport, New York 14450  
CERTIFIED MAIL RECEIPT #:  
9489 0090 0027 6389 9890 31

Mr. Brett Provenzano, Superintendent  
Fairport Central School District  
38 West Church Street  
Fairport, New York 14450  
CERTIFIED MAIL RECEIPT #:  
9489 0090 0027 6389 9890 48

Mr. Wayne Pickering, IAO, Assessor  
Perinton Town Hall  
1350 Turk Hill Road  
Fairport, New York 14450  
CERTIFIED MAIL RECEIPT #:  
9489 0090 0027 6389 9890 55

Re: County of Monroe Industrial Development Agency  
Whitney Housing I LLC Project located at 696 Whitney Road West in the  
Town of Perinton, NY

Gentlemen and Ms. Buck:

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 as-recorded Memorandum of Amended and Restated Lease and Memorandum of Amended and Restated Leaseback.

Very truly yours,



Rachel C. Baranello

RCB/lap

Enclosures

cc: COMIDA

James D. Taylor

James J. Bonsignore, Esq.

**COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY**

**AND**

**WHITNEY HOUSING I LLC**

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**PAYMENT-IN-LIEU-OF-TAX AGREEMENT**

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**Tax Map No.**

152.07-1-22

**Affected Tax Jurisdictions:**

County of Monroe  
Town of Perinton  
Fairport Central School District

**Dated as of July 1, 2022**

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

**THIS PAYMENT IN LIEU OF TAX AGREEMENT** (the "PILOT Agreement") made as of July 1, 2022, 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 **WHITNEY HOUSING I, LLC**, a limited liability company formed and existing under the laws of the State of New York with offices at 2580 Baird Road, Penfield, New York 14526 (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 or retention of a leasehold interest in an aggregate approximately 1.45-acre parcel of land located at 696 Whitney Road West in the Town of Perinton, New York 14450 (the "Land"); (B) the construction thereon of a 3-story approximately 46,000 square-foot building, consisting of (i) approximately 32 one-bedroom and nine two-bedroom senior living units (the "Improvements") with 10% of the units income restricted for qualifying households earning 60% or less of the Monroe County average median income and (ii) community space, a fitness center and tenant storage space; 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"); and

**WHEREAS**, the Agency has agreed to lease the Facility to the Company; 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 Amended and Restated Lease Agreement, dated as of July 1, 2022 by and between the Company and the Agency (the "Amended and Restated Lease Agreement"), and thereafter lease said Facility back to the Company pursuant to the terms and conditions of a certain Amended and Restated Leaseback Agreement, dated as of July 1, 2022, by and between the Agency and the Company (the "Amended and Restated 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 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 County of Monroe (the "County"), the Town of Perinton (the "Town") and the Fairport Central School District



(the "School District" and, collectively with the County and the Town, 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 (**March 1, 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 (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 commencing with the **2024** Town and County tax year and the **2023-2024** School District tax year. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the Town, County and School District. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Amended and Restated 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 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 (the "Payment Date"), commencing with the invoice for the **2023-2024** School District tax year and the invoice for the **2024** Town and County tax year, an amount equal to the Total PILOT Payment, as set forth on Schedule A attached hereto and made a part hereof. The Company shall remit payment to the applicable Affected Tax Jurisdiction in accordance with instructions provided on the respective invoice. The Company shall make all payments due hereunder without further notice or invoicing from the Agency, any Affected Taxing 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, Town 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. For School District purposes, the tax rates used to determine the PILOT payment shall be the rate relating to the school 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 (i) the **2023-2024** School District tax year through the **2032-2033** School District tax year, and (ii) the **2024** County and Town tax year through the **2033** County and Town tax year. This PILOT Agreement shall expire on **December 31, 2033**; *provided, however*, the Company shall pay the **2033-2034** School District tax bill and the **2034** County and Town tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this 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 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 shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

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

4.3 The Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments, 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 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 Taxing 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) the sale or closure of the Facility; (ii) a significant unapproved change in use of the Facility; (iii) a significant reduction in employment at the Facility (as defined below); (iv) the Company abandons or otherwise vacates the County of Monroe; (v) the failure by the Company to make any payments required under this PILOT Agreement; or (vi) the breach of covenants or event of default (singularly or collectively an "Event of Default") under the Amended and Restated Leaseback Agreement, the Agency shall have the right to recapture real property tax abatements provided hereunder pursuant to the following schedule:

<b>Year of Recapture</b>	<b>Percent of Recapture, Applicable to Current Year and All Prior Years</b>
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). For purposes of this Section only, a "significant reduction in employment" shall mean more than twenty percent (20%) of the employment as stated in the Company's Application, to wit, 2.5. 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.

Notwithstanding anything to the contrary contained herein, the provisions of this Section 6.1 shall survive termination of this PILOT Agreement, for any reason whatsoever.

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.** No portion of any interest in this PILOT 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.

**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: Whitney Housing I, LLC  
2580 Baird Road  
Rochester, New York 14526  
Attn: James D. Taylor, Manager

With a copy to: Woods Oviatt Gilman LLP  
1900 Bausch & Lomb Place  
Rochester, New York 14604  
Attn: W. Stephen Tierney, Esq.

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

8.3 This 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 - JobsPlus Tax Abatement Policy.**

9.1 Jobs Requirement. The Company shall maintain its present impacted job level of 2.5 full-time jobs at the Facility and the Company shall create, at the Facility, one (1) new full-time/full-time equivalent job(s) in three (3) years and maintain those full-time/full-time equivalent jobs for the balance of the ten (10) year term hereof.

9.2 Compliance Report. The Company shall report its compliance with these provisions as requested by the Agency, or its project compliance monitor.

9.3 Job Failure. If the one (1) new full-time/full-time equivalent job(s) are not created at the Facility by the end of the three (3) year period or not continuously maintained at the Facility during the balance of the term hereof, the exemption schedule will revert back to Section 485-b of the New York RPTL and the Company agrees to pay in any year for which the job creation requirements are not met (a "Disqualifying Year"), as an additional payment in lieu of taxes, an amount equal to the difference between the tax benefits received in years one through the Disqualifying Year under this PILOT Agreement and the tax benefits which would have been received in years one through the Disqualifying Year under Section 485-b of the New York RPTL. Under extenuating circumstances, the Agency Board may waive the above penalties after reviewing a written request from the Company for waiver of the penalties.

9.4 Waiver Process. The payments required hereunder for any non-compliance shall be paid by the Company to any and all Affected Tax Jurisdictions whether or not billed. However, if the Company has made a good faith effort to achieve the job creation requirement, it may apply in writing for relief from the obligation for repayment of taxes abated, based on a showing of unforeseen economic circumstances, fiscal hardship, or other good cause. Application for relief from the repayment obligation shall be made to the Agency, which shall examine the application and grant relief, in whole or in part, from the repayment obligation or grant an alternate schedule for attaining the job creation requirement.

9.5 Benefit Period. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than ten (10) consecutive years. The Company agrees that it will not seek any tax exemption for the Facility which would provide benefits for more than ten (10) consecutive years. Notwithstanding the foregoing, nothing contained in this PILOT Agreement shall render the Company ineligible for a continued tax exemption under Real Property Tax Law Section 485-b or any other applicable statute if this PILOT Agreement is terminated prior to the expiration of the exemption schedule set forth herein.

9.6 Affordable Units Requirement. The Company acknowledges and agrees that the Project is subject to the Agency's Housing Incentive Policy, which requires that at least ten percent (10%) of the total square footage of the residential area of the 2022 be set aside as Affordable (as defined in the Housing Incentive Policy).

*[Remainder of Page Intentionally Left Blank]*

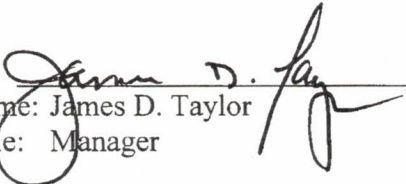


**IN WITNESS WHEREOF**, the parties hereto have executed this PILOT Agreement as of the day and year first above written.

**COUNTY OF MONROE INDUSTRIAL  
DEVELOPMENT AGENCY**

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

**WHITNEY HOUSING I, LLC**  
By: Whitney Town Center LLC, as Member

By:   
Name: James D. Taylor  
Title: Manager

**SCHEDULE A**  
**TO**  
**PILOT AGREEMENT DATED AS OF JULY 1, 2022**  
**BY AND BETWEEN THE**  
**COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY**  
**AND WHITNEY HOUSING I, LLC**

"Total PILOT Payment" shall be calculated as follows:

<u>Tax Year</u>	<u>County and Town Tax Year</u>	<u>School District Tax Year</u>	<u>Total Taxable Valuation</u>
Year 1	2024	2023/2024	Base Valuation, plus (Added Value x .10)
Year 2	2025	2024/2025	Base Valuation, plus (Added Value x .20)
Year 3	2026	2025/2026	Base Valuation, plus (Added Value x .30)
Year 4	2027	2026/2027	Base Valuation, plus (Added Value x .40)
Year 5	2028	2027/2028	Base Valuation, plus (Added Value x .50)
Year 6	2029	2028/2029	Base Valuation, plus (Added Value x .60)
Year 7	2030	2029/2030	Base Valuation, plus (Added Value x .70)
Year 8	2031	2030/2031	Base Valuation, plus (Added Value x .80)
Year 9	2032	2031/2032	Base Valuation, plus (Added Value x .90)
Year 10	2033	2032/2033	Full Taxes

For the term of this PILOT Agreement, the Company 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 Town of Perinton, 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.

Total Taxable Valuation = Base Valuation + (Added Value x Abatement Factor)  
Total PILOT Payment = Total Taxable Valuation (after equalization) x Tax Rate



NYS BOARD OF REAL PROPERTY 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 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

Name Whitney Housing I LLC  
Street 2580 Baird Road  
City Penfield, New York 14526  
Telephone no. Day (585) 330-9801  
Evening ( )  
Contact James D. Taylor  
Title Manager

**3. DESCRIPTION OF PARCEL**

- a. Assessment roll description (tax map no./roll year) 152.07-2-22  
b. Street address 696 Whitney Road West  
c. City, Town or Village Perinton (Town)  
d. School District Fairport CSD  
e. County Monroe  
f. Current assessment \_\_\_\_\_  
g. Deed to IDA (date recorded; liber and page)  
Lease Agreement, a memorandum of which was  
recorded on or about August 4, 2022.

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

- a. Brief description (include property use) construction of a senior housing complex  
b. Type of construction \_\_\_\_\_  
c. Square footage \_\_\_\_\_  
d. Total cost \$8,387,000  
e. Date construction commenced Summer 2022  
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>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Town/City <u>Perinton (Town)</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Village _____		
School District <u>Fairport CSD</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Person or entity responsible for payment

Name Whitney Housing I LLC  
 Title \_\_\_\_\_  
 Address 2580 Baird Road  
Penfield, New York 14526

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

If "No" identify owner and explain IDA rights or interest

Telephone 585-330-9801

in an attached statement. The 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 \_\_\_\_\_ assessment roll year \_\_\_\_\_

Real Property Tax Law

7. A copy of this application, including all attachments, has been mailed or delivered on 8/10/2022 (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.

8/2/2022  
 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

MONROE COUNTY CLERK'S OFFICE

THIS IS NOT A BILL. THIS IS YOUR RECEIPT.

Return To:  
BOX 18 LAP

Receipt # 3157756

Book Page D 12701 0541

No. Pages: 6

Instrument: MEMO OF LEASE

Control #: 202208041032

Ref #: TT0000000383

Date: 08/04/2022

Time: 3:17:07 PM

WHITNEY HOUSING I LLC,

COUNTY OF MONROE INDUSTRIAL DEVELOPMENT  
AGENCY,

Recording Fee	\$26.00	
Pages Fee	\$25.00	
State Fee Cultural Education	\$14.25	
State Fee Records	\$4.75	Employee: CT
Management		
TP-584 Form Fee	\$5.00	
Total Fees Paid:	\$75.00	

State of New York

MONROE COUNTY CLERK'S OFFICE  
WARNING – THIS SHEET CONSTITUTES THE CLERKS  
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &  
SECTION 319 OF THE REAL PROPERTY LAW OF THE  
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

Consideration: \$1.00

JAMIE ROMEO

MONROE COUNTY CLERK



5  
5  
Record and Return to:

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

Property Addresses: 100 Clear Spring Trail, 696 Whitney Rd.  
West and Whitney Rd West, Fairport, NY 14450  
Tax Map Nos.: 152.07-1-20, 152.07-1-22 and 152.08-1-7

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

**THIS MEMORANDUM**, dated as of July 1, 2022 (the "Memorandum of Amended and Restated Lease"), is by and between **WHITNEY HOUSING I, LLC**, a limited liability company formed and validly existing under the laws of the State of New York with offices at 2580 Baird Road, Penfield, New York 14526 (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 Amended and Restated Lease: That certain Amended and Restated Lease Agreement, dated as of July 1, 2022 (the "Amended and Restated Lease," ) which amends and restates that certain Lease Agreement, dated as of March 1, 2016 a Memorandum of which was recorded in the Monroe County Clerk's Office on March 11, 2016 in Liber 11667 of Deeds, at page 547), whereby the Company leases certain real property to the Agency.

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

3. Term of Amended and Restated Lease: Commencing July 1, 2022 and ending **December 31, 2033.**

4. Date of Commencement: July 1, 2022.

RECORDED  
Time: 3:17

5. Date of Termination: December 31, 2033.

**AUG - 4 2022**

6. Rights of Extension or Renewal: None.

Monroe County Clerk's Office

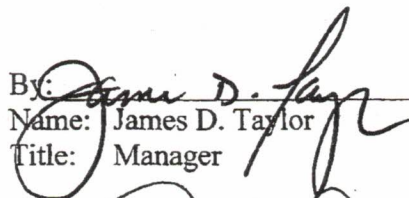
7. Amended and Restated Lease Subordinate. The Amended and Restated Lease Agreement (excepting the Agency's Unassigned Rights as set forth therein) is subject and subordinate to (i) that certain Building Loan Mortgage and Security Agreement, dated March 2, 2016 in the original principal amount of \$19,145,000 granted by the Company and the Agency in favor of Northwest Savings Bank; (ii) that certain Building Loan Mortgage and Security Agreement, dated March 11, 2016 in the original principal amount of \$3,680,000.00 granted by Whitney Commercial I LLC, the Company and the Agency in favor of Northwest Savings Bank; (iii) that certain Mortgage, dated July 29, 2022 in the principal amount of Three Million One Hundred Fifty-Two Thousand Six Hundred Forty Five and 73/100 Dollars (\$3,152,645.73) granted by the Company and the Agency in favor of the Northwest Bank (the "Mortgagee"); (iv) that certain Mortgage, Consolidation, Modification, Extension, and Spreader Agreement in the original principal amount of \$24,000,000.00 granted by Whitney Commercial I LLC, the Company and the Agency in favor of Northwest Savings Bank, which consolidates the mortgages at (i)-(iii) above; (v) a certain Mortgage, dated July 29, 2022 in the principal amount of Four Million Eight Hundred Thousand and 00/100 Dollars (\$4,800,000.00) granted by the Company and the Agency in favor of the Mortgagee; and (vi) that certain Amended and Restated Leaseback Agreement, dated as of July 1, 2022, between the Agency and the Company (the "Amended and Restated Leaseback Agreement").



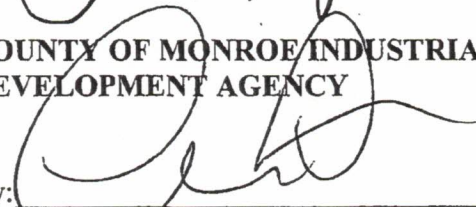
IN WITNESS WHEREOF, the Company and the Agency have caused this Memorandum of Amended and Restated Lease to be executed in their respective names, all as of the date first written above.

**WHITNEY HOUSING I, LLC**

By: Whitney Town Center LLC, as Member

By:   
Name: James D. Taylor  
Title: Manager

**COUNTY OF MONROE INDUSTRIAL  
DEVELOPMENT AGENCY**

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

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

On the 28<sup>th</sup> day of July, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared **James D. Taylor**, 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.:

JAMES J. BONSIGNORE  
Notary Public, State of New York  
Qualified in Monroe County  
No. 02BO6185410  
Commission Expires April 14, 2024

On the 27<sup>th</sup> day of July, 2022, 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, 2023

## Schedule A

### Legal Description of the Leased Premises

#### **Parcel I:**

**696 Whitney Road, Town of Perinton**

**Whitney Road, Town of Perinton**

**Tax Account Nos. 152.07-01-22 and 152.-8-01-07**

ALL THAT TRACT OR PARCEL OF LAND, situate in Lot 54, Township 12, Range 4 of the Phelps & Gorham Purchase, in the Town of Perinton, County of Monroe, and State of New York, as shown on the drawings entitled "Subdivision Plat" prepared by Marathon Engineering, having project number 0016-22, drawing number SV-1.0 and last revised April 14, 2022, being more particularly bounded and described as follows:

Beginning at a point at the centerline (CL) of the Whitney Road (County Road 17) and the eastern property line of lands N/F of Whitney Commercial II LLC, having Tax ID number 152.08-01-07, said point being a distance of 425.00 feet from the centerline of Lonesome Road and being the point or place of beginning; thence

1. Running a line along the CL of Whitney Rd a bearing of S89° 30' 42" E, a distance of 100.00 feet to a point; thence
2. Continuing along the CL S89° 57' 55" E, a distance of 200.00 feet to a point; thence
3. Turning and running a line a bearing of N00° 38' 53" E, a distance of 217.29 feet to a point; thence
4. Turning and running a line a bearing of S89° 57' 55" E, a distance of 200.00 feet to a point; thence
5. Turning and running a line a bearing of S00° 38' 53" W, a distance of 24.86 feet to a point; thence
6. Turning and running a line a bearing of S89° 44' 52" E, a distance of 100.00 feet to a point; thence
7. Turning and running a line a bearing of S00° 38' 53" W, a distance of 192.84 feet to the point or place of beginning.

Intending to describe a 1.44-acre parcel of land comprising Tax ID parcels 152.08-01-07 and 152.07-01-22.

#### **Parcel II:**

**100 Clear Spring Trail**

**Tax Account No. 152-07-01-20**

ALL THAT TRACT OR PARCEL OF LAND, consisting of 14.715 acres, situate in Town

Lot 54, Township 12, Range 4 of The Phelps and Gorham Purchase, situate in the Town of Perinton, County of Monroe, and State of New York, as shown on the drawing from Kocher Surveying, P.C. titled "Topographic Survey" dated January 22, 2008, being more particularly bounded and described as follows:

Beginning at a point on the northwest property corner of #666 Whitney Road (liber 5309 of deeds, page 26), said point being on the common property line of lands owned, now or formerly, by Peter J. and Thelma B. Depuy (Tax ID 152.07-01-19), said point being the point or place of beginning; thence

1. Running a line having a bearing of N00°29'50"E a distance of 499.38 feet to a point; thence
2. Deflecting and running a line having a bearing of N00°50'04"E a distance of 375.14 feet to a point; thence
3. Turning and running a line having a bearing of S89°32'24"E a distance of 660.32 feet to a point; thence
4. Turning and running a line having a bearing of S89°32'24"E a distance of 660.32 feet to a point; thence
5. Turning and running a line having a bearing of N89°57'55"W a distance of 200.00 feet to a point; thence
6. Turning and running a line having a bearing of S00°38'53"W a distance of 192.54 feet to a point; thence
7. Turning and running a line having a bearing of N89°57'55"W a distance of 72.13 feet to a point; thence
8. Turning and running a line along the eastern property line of 666 Whitney Road, having a bearing of N00°29'50"E a distance of 378.25 feet to a point; thence
9. Turning and running a line along the northern property line of 666 Whitney Road, having a bearing of N89°57'55"W a distance of 387.06 feet to a point; said point being the point or place of beginning.
10. Intending to describe 14.715+/- acres of land.

**Parcels I AND II ABOVE BEING MORE MODERNLY AND ACCURATELY DESCRIBED AS FOLLOWS:**

ALL THAT TRACT OR PARCEL OF LAND, situate in Lot 54, Township 12, Range 4 of the Phelps & Gorham Purchase, in the Town of Perinton, County of Monroe, and State of New York, as shown on the drawings entitled "Subdivision Plat" prepared by Marathon Engineering, having project number 0016-22, drawing number SV-1.0 and last revised April 14, 2022, being more particularly bounded and described as follows:

Beginning at a point at the centerline (CL) of Whitney Road (County Road 17) and the



eastern property line of lands N/F of Whitney Commercial II LLC, having Tax ID number 152.08-01-07, said point being a distance of 425.00 feet from the centerline of Lonesome Road and being the point or place of beginning; thence

1. Running a line along the CL of Whitney Rd a bearing of N89° 30' 42" W, a distance of 100.00 feet to a point; thence
2. Continuing along said CL N89° 57' 55" W, a distance of 272.13 feet to a point; thence
3. Turning and running a line a bearing of N00° 29' 50" E, a distance of 403.00 feet to a point; thence
4. Turning and running a line a bearing of N89° 57' 55" W, a distance of 387.06 feet to a point; thence
5. Turning and running a line a bearing of N00° 29' 50" E, a distance of 499.38 feet to a point; thence
6. Continuing northerly a bearing of N00° 50' 04" E, a distance of 375.14 feet to a point; thence
7. Turning and running a line a bearing of S89° 32' 24" E, a distance of 660.32 feet to a point; thence
8. Turning and running a line a bearing of S00° 38' 53" W, a distance of 1085.02 feet to a point; thence
9. Turning and running a line a bearing of S89° 44' 52" E, a distance of 100.00 feet to a point; thence
10. Turning and running a line a bearing of S00° 38' 53" W, a distance of 192.84 feet to the point or place of beginning.

Intending to describe a 16.196 +/- acre parcel.

MONROE COUNTY CLERK'S OFFICE

THIS IS NOT A BILL. THIS IS YOUR RECEIPT.

Return To:  
BOX 18 LAP

Receipt # 3157756

Book Page D 12701 0547

No. Pages: 6

Instrument: MEMO OF LEASE

Control #: 202208041033

Ref #: TT0000000384

Date: 08/04/2022

COUNTY OF MONROE INDUSTRIAL DEVELOPMENT  
AGENCY,

Time: 3:17:08 PM

WHITNEY HOUSING I LLC,

Recording Fee	\$26.00	
Pages Fee	\$25.00	
State Fee Cultural Education	\$14.25	
State Fee Records	\$4.75	Employee: CT
Management		
TP-584 Form Fee	\$5.00	
Total Fees Paid:	\$75.00	

State of New York

MONROE COUNTY CLERK'S OFFICE  
WARNING – THIS SHEET CONSTITUTES THE CLERKS  
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &  
SECTION 319 OF THE REAL PROPERTY LAW OF THE  
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

Consideration: \$1.00

JAMIE ROMEO

MONROE COUNTY CLERK



33

Record and Return to:

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

Property Addresses: 100 Clear Spring Trail, 696 Whitney Rd.  
West and Whitney Rd West, Fairport, NY 14450  
Tax Map Nos.: 152.07-1-20, 152.07-1-22 and 152.08-1-7

RECORDED  
Time: 3:17 PM

**MEMORANDUM OF AMENDED AND RESTATED LEASEBACK**  
**Section 291-c of the Real Property Law**  
**(Agency to Company)**

AUG - 4 2022

Monroe County Clerk's Office

**THIS MEMORANDUM**, dated as of July 1, 2022 (the "Memorandum of Amended and Restated 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 **WHITNEY HOUSING I, LLC**, a limited liability company formed and validly existing under the laws of the State of New York with offices at 2580 Baird Road, Penfield, New York 14526, as Lessee (the "Company").

1. Reference to Amended and Restated Leaseback: That certain Amended and Restated Leaseback Agreement, dated as of July 1, 2022 (the "Amended and Restated Leaseback") which amends and restates that certain Leaseback Agreement, dated as of March 1, 2016 a Memorandum of which was recorded in the Monroe County Clerk's Office on March 11, 2016 in Liber 11667 of Deeds, at page 552), 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 Town of Perinton, Monroe County, New York, as more particularly described on Schedule A attached hereto (the "Leased Premises").

3. Term of Amended and Restated Leaseback: Commencing July 1, 2022 and ending **December 31, 2033**.

4. Date of Commencement: July 1, 2022.

5. Date of Termination: December 31, 2033.

6. Rights of Extension or Renewal: None.

7. Amended and Restated Leaseback Subordinate. The Amended and Restated Leaseback Agreement (excepting the Agency's Unassigned Rights as set forth therein) is subject and subordinate to (i) that certain Building Loan Mortgage and Security Agreement, dated March 2, 2016 in the original principal amount of \$19,145,000 granted by the Company and the Agency in favor of Northwest Savings Bank; (ii) that certain Building Loan Mortgage and Security Agreement, dated March 11, 2016 in the original principal amount of \$3,680,000.00 granted by Whitney Commercial I LLC, the Company and the Agency in favor of Northwest Savings Bank; (iii) that certain Mortgage, dated July 29, 2022 in the principal amount of Three Million One Hundred Fifty-Two Thousand Six Hundred Forty Five and 73/100 Dollars (\$3,152,645.73) granted by the Company and the Agency in favor of the Northwest Bank (the "Mortgagee"); (iv) that certain Mortgage, Consolidation, Modification, Extension, and Spreader Agreement in the original principal amount of \$24,000,000.00 granted by Whitney Commercial I LLC, the Company and the Agency in favor of Northwest Savings Bank, which consolidates the mortgages at (i)-(iii) above; (v) a certain Mortgage, dated July 29, 2022 in the principal amount of Four Million Eight Hundred Thousand and 00/100 Dollars (\$4,800,000.00) granted by the Company and the Agency in favor of the Mortgagee.



IN WITNESS WHEREOF, the Agency and the Company have caused this Memorandum of Amended and Restated Leaseback 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

**WHITNEY HOUSING I, LLC**

By: Whitney Town Center LLC, as Member

By:   
Name: James D. Taylor  
Title: Manager

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

On the 27<sup>th</sup> day of July, 2022, 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, 2023

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

On the 28<sup>th</sup> day of July, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared **James D. Taylor**, 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

JAMES J. BONSIGNORE  
Notary Public, State of New York  
Qualified in Monroe County  
No. 02BO6185410  
Commission Expires April 14, 2024

## Schedule A

### Legal Description of Leased Premises

#### **Parcel I:**

**696 Whitney Road, Town of Perinton**

**Whitney Road, Town of Perinton**

**Tax Account Nos. 152.07-01-22 and 152.-8-01-07**

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1. Running a line along the CL of Whitney Rd a bearing of S89° 30' 42" E, a distance of 100.00 feet to a point; thence
2. Continuing along the CL S89° 57' 55" E, a distance of 200.00 feet to a point; thence
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5. Turning and running a line a bearing of S00° 38' 53" W, a distance of 24.86 feet to a point; thence
6. Turning and running a line a bearing of S89° 44' 52" E, a distance of 100.00 feet to a point; thence
7. Turning and running a line a bearing of S00° 38' 53" W, a distance of 192.84 feet to the point or place of beginning.

Intending to describe a 1.44-acre parcel of land comprising Tax ID parcels 152.08-01-07 and 152.07-01-22.

#### **Parcel II:**

**100 Clear Spring Trail**

**Tax Account No. 152-07-01-20**

ALL THAT TRACT OR PARCEL OF LAND, consisting of 14.715 acres, situate in Town Lot 54, Township 12, Range 4 of The Phelps and Gorham Purchase, situate in the Town of

Perinton, County of Monroe, and State of New York, as shown on the drawing from Kocher Surveying, P.C. titled "Topographic Survey" dated January 22, 2008, being more particularly bounded and described as follows:

Beginning at a point on the northwest property corner of #666 Whitney Road (liber 5309 of deeds, page 26), said point being on the common property line of lands owned, now or formerly, by Peter J. and Thelma B. Depuy (Tax ID 152.07-01-19), said point being the point or place of beginning; thence

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2. Deflecting and running a line having a bearing of N00°50'04"E a distance of 375.14 feet to a point; thence
3. Turning and running a line having a bearing of S89°32'24"E a distance of 660.32 feet to a point; thence
4. Turning and running a line having a bearing of S89°32'24"E a distance of 660.32 feet to a point; thence
5. Turning and running a line having a bearing of N89°57'55"W a distance of 200.00 feet to a point; thence
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9. Turning and running a line along the northern property line of 666 Whitney Road, having a bearing of N89°57'55"W a distance of 387.06 feet to a point; said point being the point or place of beginning.
10. Intending to describe 14.715+/- acres of land.

**Parcels I AND II ABOVE BEING MORE MODERNLY AND ACCURATELY DESCRIBED AS FOLLOWS:**

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Road and being the point or place of beginning; thence

1. Running a line along the CL of Whitney Rd a bearing of N89° 30' 42" W, a distance of 100.00 feet to a point; thence
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Intending to describe a 16.196 +/- acre parcel.