

CITY OF PEEKSKILL INDUSTRIAL DEVELOPMENT AGENCY
840 Main Street, City of Peekskill, New York 10566

**EXTENDED SALES TAX EXEMPTION LETTER AND
AMENDMENT TO AGENT AGREEMENT
EXPIRING DECEMBER 31, 2019**

December 31, 2018

Ft. Hill Peekskill, LLC and
The Abbey at Fort Hill, LLC
100 Summit Lake Drive
Valhalla, New York 10595
Attn: Martin Ginsburg

Re: City of Peekskill Industrial Development Agency
Ft. Hill Peekskill, LLC Project with
The Abbey at Fort Hill, LLC
OSC Project Code Number: 5504-16-02A-C
Extension of Agent Status and PILOT Billing Agreement

Ladies and Gentlemen:

Pursuant to a resolution duly adopted on December 20, 2016 (the "Authorizing Resolution"), the City of Peekskill Industrial Development Agency (the "Agency") appointed **FT. HILL PEEKSKILL, LLC**, for itself and/or entities to be formed (collectively, the "Company") the true and lawful agent of the Agency to undertake a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold interest in approximately 17 acres of real property located on and adjacent to Mary's Street, Peekskill, New York (the "Land", being more particularly described as new tax parcels to be subdivided from existing tax parcels 32.8-1-3, 22.20-2-1 and 22.20-2-4) along with the existing improvements thereon consisting principally of an approximately 29,000 square foot former convent building structure, an approximately 7,500 square foot chapel building structure and various outbuildings and structures and infrastructure improvements (the "Existing Improvements"); (ii) the planning, design, demolition, construction, reconstruction, and rehabilitation of the Existing Improvements for operation by the Company as an approximately 41-room hotel facility, spa and restaurant facility and the planning, design, demolition, construction and operation upon the Land of a commercial, market rate apartment complex comprised of three (3) buildings containing 178 residential apartment units, along with roadway, improvements, internal and external parking improvements, access and egress improvements, stormwater improvements, utility improvements, signage, curbage, sidewalks, and landscaping improvements (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Existing Improvements and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land, the Existing Improvements and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to

which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the “Straight Lease Transaction”).

In furtherance of the Project, the Agency and Company entered into a certain Agent and Financial Assistance and Project Agreement, dated as of December 30, 2016 (the “Agent Agreement”), wherein the Company was appointed as agent of the Agency to undertake the Project, such initial agent status expiring as of December 31, 2018. Thereafter, the Agency and Company entered into a certain First Amendment to Agent and Financial Assistance and Project Agreement, dated as of June 29, 2017 (the “First Amendment”), wherein the Agency and Company amended the Agent Agreement to incorporate a certain Payment-in-Lieu-of-Tax Agreement, also dated as of June 29, 2017 (the “Company PILOT Agreement”), and relating to certain defined portions of the Project owned by the Company and (i) leased to the Agency pursuant to a certain Lease Agreement, dated as of June 29, 2017 (the “Company Lease Agreement”), and (ii) leased by the Agency back to the Company pursuant to a certain Leaseback Agreement, dated as of June 29, 2017 (the “Company Leaseback Agreement”).

In furtherance of the undertaking of portions of the Project not included within the Company Lease Agreement, Company Leaseback Agreement and Company PILOT Agreement, and more particularly described as the planning, design, demolition, construction, reconstruction, and rehabilitation of the Existing Improvements for operation as an approximately 41-room hotel facility, spa and restaurant facility, along with roadway, improvements, internal and external parking improvements, access and egress improvements, stormwater improvements, utility improvements, signage, curbage, sidewalks, and landscaping improvements, all on an approximately 7.897 acre parcel and portion of the Land (hereinafter, the “Spa Facility”), the Agency, Company and The Abbey as Fort Hill, LLC (hereinafter, the “Spa Owner”) entered into a certain Second Amendment to Agent and Financial Assistance and Project Agreement, dated as of September 11, 2018 (the “Second Amendment”), wherein the Agency, Company and Spa Owner further amended the Agent Agreement, as amended, to incorporate the Spa Owner as a party to the Agent Agreement in connection with the undertaking of the Spa Facility, all as more particularly described within (i) that certain Payment-in-Lieu-of-Tax Agreement, also dated as of September 11, 2018 (the “Spa PILOT Agreement”), and relating to certain defined portions of the Project owned by the Spa Owner and (i) leased to the Agency pursuant to a certain Lease Agreement, dated as of September 11, 2018 (the “Spa Lease Agreement”), and (ii) leased by the Agency back to the Spa Owner pursuant to a certain Leaseback Agreement, dated as of September 11, 2018 (the “Spa Leaseback Agreement”).

The foregoing appointments included authority to purchase on behalf of the Agency all materials to be incorporated into and made an integral part of the Facility and the following activities as they relate to any construction, erection and completion of any buildings, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of such buildings: (1) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with construction and equipping, (2) all purchases, rentals, uses or consumption of supplies, materials, utilities and services of every kind and description used in connection with construction and equipping and (3) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including

installation costs), installed or placed in upon or under such building or facility, including all repairs and replacements of such property.

This agency appointment includes the power to delegate such agency, in whole or in part to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company, as primary agent, and Spa Owner, as subagent, may choose, including but not limited to the individuals and entities described on Schedule A attached hereto. The Company and Spa Owner shall have the right to amend Schedule A from time to time and shall be responsible for maintaining an accurate list of all parties acting as agent for the Agency.

This letter is issued pursuant to the Authorizing Resolution and shall replace the prior Sales Tax Exemption Letters issued by the Agency to the Company and further serve to amend and supplement the Agent Agreement, as amended. As further set forth in the Agent Agreement, the Company is required to complete "IDA Appointment of Project Operator or Agent For Sales Tax Purposes" (NYS Form ST-60, a form of which is attached hereto as Exhibit A) for each agent, subagent, contractor, subcontractor, if any, and such other parties as the Company chooses who provide materials, equipment, supplies or services and execute said form as agent for the Agency and forward said form to the New York State ("State") Department of Taxation and Finance within thirty (30) days of appointment.

In addition, and in order to be entitled to use the exemption from New York State Sales and Use Taxes ("Sales Tax"), the Company, its agents, subagents, contractors and subcontractors should present to the supplier or vendor of materials for the Project, a completed "IDA Agent or Project Operator Exempt Purchase Certificate" (NYS Form ST-123, a form of which is attached hereto as Exhibit B), to show that the Company, its agents, subagents, contractors and subcontractors are each acting as agent for the Agency in making the purchases of tangible personal property or services for use in the Project, thereby relieving such vendor or seller from the obligation to collect Sales Tax with respect to the construction and installation and equipping of the Facility. In connection therewith, it is necessary for the Company to identify the Project on each bill or invoice and indicate thereon which of the Company, its agents, subagents, contractors and subcontractors acted as agent for the Agency in making the purchases.

As further set forth in the Agent Agreement, the Company is required to file an annual statement with the State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (NYS Form ST-340) regarding the value of sales and use tax exemptions the Company, its agents, consultants or subcontractors have claimed pursuant to the agency conferred on the Company by the Agency with respect to this Project, and the Company is required to provide a copy of same to the Agency within thirty (30) days of each filing; provided, however, in no event later than February 15th of each year.

Pursuant to authority granted to the Agency Executive Director within the Authorizing Resolution, the Agency hereby authorizes an extension of the Company and Spa Owner's agent status through December 31, 2019. The Company may apply to extend this agency authority by showing good cause; *provided, however, the exemption for leases executed prior to said date shall continue through the term or extended term of said lease and any acquisition of said leased*

property. Should the agency authority be extended beyond such date, the agency created will continue for as long as the period of the Agency resolution approving such extension.

This letter is provided for the purposes of extending the agent status of the Company and to amend and supplement the Agent Agreement. No other principal/agent relationship is intended or may be implied or inferred by this letter. With respect to registered vehicles acquired by the Company in the name of the Agency, the Agency shall transfer title to such vehicles immediately back to the Company, or as soon thereafter as reasonable practicable; and any personal property acquired by the Company in the name of the Agency shall be located in the City of Peekskill, New York, except for temporary periods during ordinary use.

This letter is being issued pursuant to the Authorizing Resolution and as a supplement to the Agent Agreement. All agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project should be aware of the Agent Agreement and obtain a copy thereof. As further set forth in the Agent Agreement, except to the extent of bond proceeds (to the extent bonds are issued by the Agency with respect to the Project), the Agency is not liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company is the sole party liable thereunder.

Reference is further made to the Company PILOT Agreement, wherein the Company is obligated to make certain PILOT Payments to the Agency for the benefit of certain Affected Tax Jurisdictions (as defined within the Company PILOT Agreement) relating to the Phase I Apartments portion of the Project (including 200 Fort Hill Road (Building A), 400 Fort Hill Road (Building B); 600 Fort Hill Road (Building C), and related improvements constructed on an approximately 8.931 acre portion of TMID No. 32.8-1-3. Notwithstanding any other provision to the contrary contained within the Company PILOT Agreement, the parties hereby ratify and acknowledge that the total amount of Total PILOT Payment due and payable as of February 1, 2019 shall be \$80,265.00. The parties further acknowledge that notwithstanding the anticipated effective date of the exempt status of the Facility contained within Section 1.1(A) of the Company PILOT Agreement, the Facility remained taxable for purposes of the 2018-2019 School Tax Year and a corresponding tax bill was issued in the amount of \$55,440.10 and all installments shall be paid to the City (on behalf of the School) by the Company on or before February 1, 2019. Said \$55,440.10 payment by the Company shall be deemed and recognized by the Agency as a credit toward the \$80,265.00 Total PILOT Payment due on or before February 1, 2019, under the Company PILOT Agreement with the remaining balance of \$24,824.90 being due and payable to the Agency on or before February 1, 2019.

Reference is further made to the Spa PILOT Agreement, wherein the Spa Owner is obligated to make certain PILOT Payments to the Agency for the benefit of certain Affected Tax Jurisdictions (as defined within the Spa PILOT Agreement) relating to the Phase II Abbey Inn and Spa, located at 900 Fort Hill Road, Peekskill, New York 10566, and related improvements constructed on an approximately 7.897 acre parcel identified as TMID No. 32.8-1-3.311. Notwithstanding any other provision to the contrary contained within the Spa PILOT Agreement, the parties hereby ratify and acknowledge that the total amount of Total PILOT Payment due and payable as of February 1, 2020 shall be \$54,825.00. The parties further acknowledge that

notwithstanding the anticipated effective date of the exempt status of the Facility contained within Section 1.1(A) of the Spa PILOT Agreement, the Spa Facility may remain taxable for purposes of the 2019-2020 School Tax Year with a corresponding tax bill to be issued with installments to be paid to the City (on behalf of the School) by the Spa Owner on or before February 1, 2020. Any such tax payments shall be made by the Spa Owner and shall be deemed and recognized by the Agency as a credit toward the \$54,825.00 Total PILOT Payment due on or before February 1, 2020, under the Spa PILOT Agreement with all remaining balances being due and payable to the Agency on or before February 1, 2020.

Very truly yours,

**CITY OF PEEKSKILL INDUSTRIAL
DEVELOPMENT AGENCY**



By: _____
Name: Richard Leins
Title: Executive Director

AGREED AND ACKNOWLEDGED
THIS 18th DAY OF JANUARY, 2019

FT. HILL PEEKSKILL, LLC

By: _____
Name: Doug Ramsay
Title: Authorized Signatory

THE ABBEY AT FORT HILL, LLC

By: _____
Name: Doug Ramsay
Title: Authorized Signatory

notwithstanding the anticipated effective date of the exempt status of the Facility contained within Section 1.1(A) of the Spa PILOT Agreement, the Spa Facility may remain taxable for purposes of the 2019-2020 School Tax Year with a corresponding tax bill to be issued with installments to be paid to the City (on behalf of the School) by the Spa Owner on or before February 1, 2020. Any such tax payments shall be made by the Spa Owner and shall be deemed and recognized by the Agency as a credit toward the \$54,825.00 Total PILOT Payment due on or before February 1, 2020, under the Spa PILOT Agreement with all remaining balances being due and payable to the Agency on or before February 1, 2020.

Very truly yours,

**CITY OF PEEKSKILL INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Name: Richard Leins
Title: Executive Director

AGREED AND ACKNOWLEDGED
THIS 18th DAY OF JANUARY, 2019

FT. HILL PEEKSKILL, LLC

By: Doug Ramsay
Name: Doug Ramsay
Title: Authorized Signatory

THE ABBEY AT FORT HILL, LLC

By: Doug Ramsay
Name: Doug Ramsay
Title: Authorized Signatory

SCHEDULE A
LIST OF APPOINTED SUBAGENTS¹

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

¹ FOR EACH SUBAGENT APPOINTED BY THE COMPANY, A NYS FORM ST-60 MUST BE COMPLETED AND FILED BY THE COMPANY WITH THE NYS DEPARTMENT OF TAXATION AND FINANCE IDA UNIT INDICATING THE APPOINTMENT OF SUCH SUBAGENT OF THE COMPANY.

EXHIBITA

NYS FORM ST-60

[Attached Next Page]



IDA Appointment of Project Operator or Agent

For Sales Tax Purposes

ST-60

(4/13)

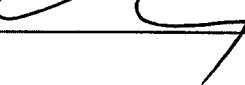
The industrial development agency or authority (IDA) must submit this form within 30 days of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only

Name of IDA City of Peekskill Industrial Development Agency		IDA project number (use OSC numbering system for projects after 1998) 5504-16-02A-C	
Street address 840 Main Street		Telephone number (914) 737-3400	
City Peekskill		State NY	ZIP code 10566
Name of IDA project operator or agent The Abbey at Fort Hill, LLC	Mark an X in the box if directly appointed by the IDA: <input type="checkbox"/>	Employer identification or social security number 82-1920763	
Street address c/o Ginsburg Development Companies, LLC 100 Summit Lake Dr.	Telephone number (914) 747-1608	Primary operator or agent? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
City Valhalla	State NY	ZIP code 10595	
Name of project Ft. Hill Peekskill, LLC Project	Purpose of project (see instructions) Construction		
Street address of project site Adjacent to Mary's Street			
City Peekskill	State NY	ZIP code 10566	
Description of goods and services intended to be exempted from New York State and local sales and use taxes		Construction of 178 market rate apartments and improvements to a 7,500 sf chapel building for operation by the company as an approximately 41-room hotel facility, spa and restaurant	

Date project operator or agent appointed (mm/dd/yy) 01/18/19	Date project operator or agent status ends (mm/dd/yy) 12/31/19	Mark an X in the box if this is an extension to an original project: <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax: \$19,932,203.00		Estimated value of New York State and local sales and use tax exemption provided: \$1,470,000.00

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA Richard Leins	Print title Executive Director
Signature 	Date 01/18/2019
	Telephone number (914) 737-3400

Instructions

Filing requirements

An IDA must file this form within 30 days of the date the IDA appoints any project operator or other person as agent of the IDA, for purposes of extending any sales and compensating use tax exemptions.

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA need not file this form if the IDA does not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, the IDA must, within 30 days of the change, file a new form with the new information.

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA must, within 30 days, send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. It should attach to the letter a copy of the form it originally filed. The IDA need not send a letter for a form that is not valid merely because the "Completion date of project" has passed.

Purpose of project

For Purpose of project, enter one of the following:

- Services
- Agriculture, forestry, fishing
- Finance, insurance, real estate
- Transportation, communication, electric, gas, sanitary services
- Construction
- Wholesale trade
- Retail trade
- Manufacturing
- Other (specify)

Mailing instructions

Mail completed form to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1098, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(ii).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Internet access: www.tax.ny.gov
(for information, forms, and publications)



Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

EXHIBIT B

NYS FORM ST-123

[Attached Next Page]



New York State Department of Taxation and Finance

New York State Sales and Use Tax

**IDA Agent or Project Operator
Exempt Purchase Certificate**

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. Do not use this form to purchase motor fuel or diesel motor fuel exempt from tax. See Form FT-123, *IDA Agent or Project Operator Exempt Purchase Certificate for Fuel*.

Name of seller	Name of agent or project operator The Abbey at Fort Hill, LLC		
Street address	Street address c/o Ginsburg Development Companies, LLC 100 Summit Lake Dr.		
City, town, or village	State	ZIP code	City, town, or village Valhalla
			State NY
			ZIP code 10595
Agent or project operator sales tax ID number (see instructions)			

Mark an **X** in one: Single-purchase certificate Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Name of IDA City of Peekskill Industrial Development Agency		
Name of project Ft. Hill Peekskill, LLC Project	IDA project number (use OSC number) 5504-16-02A-C	
Street address of project site Adjacent to Mary's Street		
City, town, or village	State	ZIP code
Enter the date that you were appointed agent or project operator (mm/dd/yy) 01 / 18 / 19	Enter the date that agent or project operator status ends (mm/dd/yy) 12 / 31 / 19	

Exempt purchases

(Mark an **X** in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	