

# IMAGINE MONROE

POWERED BY COMIDA

## APPLICATION FOR ASSISTANCE

Each applicant seeking assistance must complete this application and provide required supplemental form/documentation. A non-refundable application fee of \$350.00 must be included with this application. Make check payable to COMIDA. Please see page 10 for additional information on costs and fees.

Please answer all questions. Use "None" or "Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law, except for information that is considered deniable by the Freedom of Information Law. This form is available at [www.growmonroe.org](http://www.growmonroe.org).

### I. APPLICANT

A. Name 390 East CBM, LLC  
Address 2580 Baird Rd  
City/State/Zip Penfield, NY 14525  
Tax ID No. 86-0693213  
Contact Name James Taylor  
Title Managing Member  
Telephone (585) 330-9801  
E-Mail jimt@unioncrossing.com

B. Owners of 20% or more of Applicant Company

Name	%	Corporate Title
<u>E. Philip Saunders</u>	<u>58.5</u>	<u>Member</u>
<u>James Taylor</u>	<u>19.5</u>	<u>Member</u>
<u>John Billone</u>	<u>19.5</u>	<u>Member</u>
<u>Jerald Eichelberger</u>	<u>2.5</u>	<u>Member</u>

C. Applicant's Legal Counsel

Name Stephen Tierney  
Firm Woods Oviatt Gilman, LLP  
Address 2 State Street  
City/State/Zip Rochester, NY 14604  
Telephone (585) 987-2839  
Fax \_\_\_\_\_  
Email stierney@woodsoviatt.com

### II. PROJECT

A. Address of proposed project facility  
390 East Avenue  
Rochester, NY 14607  
Tax Map Parcel Number 121.26-1-38.002/ 121.26-1-37  
City/Town/Village Rochester  
School District Rochester CSD  
Current Legal Owner of Property  
384 East Avenue Inn of Rochester, LLC

B. Proposed User(s)/Tenant(s) of the Facility  
If there are multiple Users/Tenants, please attach additional pages.  
Company Name Courtyard by Marriott, East Ave  
Address 1250 Scottsville Road, Suite 20  
City/State/Zip Rochester, NY 14624  
Tax ID No. 83-0693213  
Contact Name Jerard Eichelberger  
Title Operations Member  
Telephone (585) 272-2350  
E-Mail jeichelberger@ehmroc.com  
% of facility to be occupied by company 100

C. Owners of 20% or more of User/Tenant Company

Name	%	Corporate Title
<u>E. Philip Saunders</u>	<u>58.5</u>	<u>Member</u>
<u>James Taylor</u>	<u>19.5</u>	<u>Member</u>
<u>John Billone</u>	<u>19.5</u>	<u>Member</u>
<u>Jerald Eichelberger</u>	<u>2.5</u>	<u>Member</u>

D. Benefits Requested (Check all that apply)

Sales Tax Exemption  
 Industrial Revenue Bond Financing  
 Mortgage Recording Tax Exemption  
 Real Property Tax Abatement

E. Description of project (check all that apply)

- New Construction
- Existing Facility
  - Acquisition
  - Expansion
  - Renovation/Modernization
- Acquisition of machinery/equipment
- Other (specify) \_\_\_\_\_

GENERAL DESCRIPTION OF THE PROJECT AND BACKGROUND ON USER(S) OF THE FACILITY  
(Attached additional sheets as necessary)

390 East CBM proposes to acquire and demolish the under-performing, 55+ year-old East Avenue Inn and replace it with a new four-story Courtyard by Marriott Hotel.

The current structure was built as a Travelodge Motor Inn back in the late 1950's and has several issues that make redevelopment impractical:

- Multiple internal elevation changes that impede travel;
- Obsolete guest room layouts and amenities;
- Not ADA Compliant
- Lacks mandatory Fire Suppression System;
- Insufficient public space and amenities;
- Insufficient on-site parking;
- Inefficient building envelope, lighting and mechanical systems.

The new configuration will increase room count and improve parking while reducing both building footprint and impervious surfaces. More importantly, the existing stodgy, imposing structure will be replaced with a new, more compact building, incorporating energy efficiency and an exterior that complements the surrounding historic structures.

The property will be operated under the name Courtyard by Marriott—East Avenue and managed under contract by Rochester-based Essex Hotel Management.

At stabilization, project benefits will include a 100% increase in employment (16 in three years), 346% increase in annual revenues, \$350,000 in additional sales tax, \$440,000 in additional room tax and \$210,000 in additional property taxes.

Supplemental project information is provided in the attached supporting documents.

**II. PROJECT (cont'd)**

F. Are other facilities or related companies located within New York State?

Yes  No

Location:

\_\_\_\_\_

Will the Project result in the removal of an industrial or manufacturing plant of the Project occupant from one area of the state to another area of the state?

Yes  No

Will the Project result in the abandonment of one or more plants or facilities of the Project occupant located within the state?

Yes  No

If Yes to either question, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry\*\*:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

G. Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency?

Yes  No

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken with the Financial Assistance to be provided by the Agency\*\*:

Project incentives are necessary due to  
extraordinarily high development costs including  
site acquisition, building demolition, bedrock and  
other soils, construction on a constrained  
urban site, coordination of traffic and difficult  
operational logistics of a shared site

\*\*To be completed with Agency assistance.

**H. PROJECT TIMELINE**

Proposed Date of Acquisition

05/15/2019

Proposed Commencement Date of Construction

06/01/2019

Anticipated Completion Date

09/01/2020

I. Contractor(s)

Taylor, the Builders

Monroe Roadways

J. State Environmental Quality Review (SEQR) Act Compliance

COMIDA, in granting assistance to the Applicant, is required to comply with the New York State Environmental Quality Review Act (SEQR). This is applicable to projects that require the state or local municipality to issue a discretionary permit, license or other type of Approval for that project.

Does the proposed project require discretionary permit, license or other type of approval by the state or local municipality?

YES - Include a copy of any SEQR documents related to this Project including Environmental Assessment Form, Final Determination, Local Municipality Negative Declaration, etc.

NO

**III. PROPERTY TAX ABATEMENT/PAYMENT IN LIEU OF TAX AGREEMENT (PILOT)**

Check One:

**JOBSPLUS**

Requirements:

- Company must commit to a 10% increase in full-time equivalent employment, measured on the existing impacted employee base, over a 3 year period. The required number of jobs is 1.6.

**LEASEPLUS**

Requirements:

- University and/or medical related facilities in which a 501(c)3 entity leases from a for-profit entity.
- Company must commit to a 10% increase in full-time equivalent employment, measured on the existing impacted employee base, over a 3 year period. The required number of jobs is \_\_\_\_\_.

**ENHANCED JOBSPLUS**

Requirements:

- A minimum \$15 million investment in new plant, machinery and equipment or renovation of existing building(s) AND
- A minimum of 100 new jobs from new companies locating in Monroe County, or existing companies expanding operations here.

**GREEN JOBSPLUS**

Requirements:

- LEED® Certification – Project must be rated as Certified, Gold, Silver or Platinum by the United States Green Building Council's Leadership in Energy and Environmental Design (LEED®) Green Building Rating System.
- Company must commit to a 10% increase in full-time equivalent employment, measured on the existing impacted employee base, over a 3 year period. The required number of jobs is \_\_\_\_\_.

**SHELTER RENTS**

for student housing or affordable housing projects.

**Local Tax Jurisdiction Sponsored PILOT**

**NO PROPERTY TAX ABATEMENT IS SOUGHT FOR THIS PROJECT**

**IV. APPLICANT PROJECT COSTS**

A. Estimate the costs necessary for the construction, acquisition, rehabilitation, improvement and/or equipping of the project by the APPLICANT.

**Building Construction or Renovation**

- a. MATERIALS a. \$ 7,000,000
- b. LABOR b. \$ 5,000,000

**Site Work**

- c. MATERIALS c. \$ 300,000
- d. LABOR d. \$ 700,000
- e. Non-Manufacturing Equipment e. \$ 400,000
- f. Furniture and Fixtures f. \$ 2,500,000
- g. LAND and/or BUILDING Purchase g. \$ 3,100,000
- h. Manufacturing Equipment h. \$ \_\_\_\_\_
- i. Soft Costs (Legal, Architect, Engineering) i. \$ 3,000,000

- Other (specify) j. \_\_\_\_\_ j. \$ \_\_\_\_\_  
 k. \_\_\_\_\_ k. \$ \_\_\_\_\_  
 l. \_\_\_\_\_ l. \$ \_\_\_\_\_  
 m. \_\_\_\_\_ m. \$ \_\_\_\_\_

Total Project Costs \$ 22,000,000

B. Sources of Funds for Project Costs:

- a. Tax-Exempt Industrial Revenue Bond a. \$ \_\_\_\_\_
- b. Taxable Industrial Revenue Bond b. \$ \_\_\_\_\_
- c. Tax-Exempt Civic Facility Bond c. \$ \_\_\_\_\_
- d. Bank Financing d. \$ 17,200,000
- e. Public Sources e. \$ \_\_\_\_\_

Identify each state and federal grant/credit

- \_\_\_\_\_ \$ \_\_\_\_\_
- \_\_\_\_\_ \$ \_\_\_\_\_
- \_\_\_\_\_ \$ \_\_\_\_\_
- \_\_\_\_\_ \$ \_\_\_\_\_

- f. Equity f. \$ 4,800,000
- TOTAL SOURCES \$ 22,000,000

C. Has the applicant made any arrangements for the financing of this project?

Yes  No

If so, please specify bank, underwriter, etc.

Negotiating on terms with two qualified  
local lenders

**IV. COMPLETE FOR EACH USER/TENANT THAT IS SEEKING SALES TAX EXEMPTION USER(S)/TENANT(S) PROJECT COSTS**

Use additional sheets as necessary

Company Name \_\_\_\_\_

A. Estimate the costs necessary for the construction, acquisition, rehabilitation, improvement and/or equipping of the project by the user(s)/tenant(s) for which a sales tax exemption is requested.

**Estimated Costs Eligible for Sales Tax Exemption Benefit**

- a. MATERIALS a. \$ \_\_\_\_\_
- b. LABOR b. \$ \_\_\_\_\_
- c. Non-Manufacturing Equipment c. \$ \_\_\_\_\_
- d. Furniture and Fixtures d. \$ \_\_\_\_\_
- Other (specify) e. \_\_\_\_\_ e. \$ \_\_\_\_\_
- f. \_\_\_\_\_ f. \$ \_\_\_\_\_
- g. \_\_\_\_\_ g. \$ \_\_\_\_\_
- h. \_\_\_\_\_ h. \$ \_\_\_\_\_

Total \$ 0

A non-refundable fee of 1/2% on TOTAL(e) above is due and payable upon issuance of a Sales Tax Letter to User(s)/Tenant(s)

\_\_\_\_\_  
 User/Tenant Company

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

For Office Use Only	
Total Assessment Value	
Land	Building
Applicant 2602-	
User/Tenant 2602-	
RM	

**VI. Value of Incentives**

Project name: 390 East

**A. IDA PILOT Benefits:**

Current Land Assessment	1,700,000	Taxes on Land	82,144
Dollar Value of New Construction & Renovation Costs	13,000,000		
Estimated New Assessed Value of Project Subject to IDA	14,700,000		

County Tax rate/\$1,000	10.56
Local Tax Rate* Tax Rate/\$1,000	37.76
School Tax Rate /\$1,000	
<b>Total Tax Rate</b>	<b>48.32</b>

PILOT Year	% Payment	County PILOT Amount	Local PILOT Amount	School PILOT Amount	Total PILOT Amount	Full Tax Payment w/o PILOT	Net Exemption
1	90%	15,523	55,507	0	71,030	792,448	639,274
2	80%	31,046	111,014	0	142,061	792,448	568,243
3	70%	46,570	166,522	0	213,091	792,448	497,213
4	60%	62,093	222,029	0	284,122	792,448	426,182
5	50%	77,616	277,536	0	355,152	792,448	355,152
6	40%	93,139	333,043	0	426,182	792,448	284,122
7	30%	108,662	388,550	0	497,213	792,448	213,091
8	20%	124,186	444,058	0	568,243	792,448	142,061
9	10%	139,709	499,565	0	639,274	792,448	71,030
10	0%	155,232	555,072	0	710,304	792,448	0
<b>Total</b>		<b>853,776</b>	<b>3,052,896</b>	<b>0</b>	<b>3,906,672</b>	<b>7,924,480</b>	<b>3,196,368</b>

\* Local Tax Rate for Town/City/Village

**B. Sales Tax Exemption Benefit:**

Estimated value of Sales Tax exemption for facility construction:	<u>584,000</u>
Estimated Sales Tax exemption for fixtures and equipment:	<u>232,000</u>
Estimated duration of Sales Tax exemption:	<u>18 months</u>

**C. Mortgage Recording Tax Exemption Benefit:**

Estimated Value of Mortgage Recording Tax exemption:	<u>\$129,000</u>
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**D. Industrial Revenue Bond Benefit**

IRB inducement amount, if required:	<u>\$0</u>
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**E. Percentage of Project Costs financed form Public Sector sources:**

Total Value of Incentives:	<u>\$4,141,368.00</u>	<u>18.82%</u>
Sources of Funds (Section IV.B.)	<u>\$22,000,000.00</u>	

\*\* All estimates are based on current tax rates.

**VII. PROJECTED EMPLOYMENT**

Complete for each Applicant or User/Tenant

Company Name: 390 East CBM LLC

Applicant:  or User/Tenant:

You must include a copy of the most recent NYS-456 Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return OR if you have multiple locations within New York State, the Bureau of Labor – BLS 3020 – Multiple Worksite Report

	Current # of jobs at proposed project location or to be relocated to project location	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be RETAINED	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be CREATED upon THREE Years after Project completion	Estimate number of residents of the Labor Market Area in which the Project is located that will fill the FTE and PTE jobs to be created upon THREE Years after Project Completion **
Full time (FTE)	18.0	18.0	18.0	12.0
Part Time (PTE)				
Total	18.0	18.0	18.0	12.0

\*\* For purposes of this question, please estimate the number of FTE and PTE jobs that will be filled, as indicated in the third column, by residents of the Labor Market Area, in the fourth column. The Labor Market Area includes: Monroe County, Orleans County, Genesee County, Wyoming County, Livingston County, Ontario County, Wayne County, Yates County, and Seneca County chosen at the Agency's discretion.

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**VIII. LOCAL LABOR**

To be completed by all Applicants and Users/Tenants of Projects which include the construction of new, expanded or renovated facilities:

Company Name 390 East CBM, LLC  
Applicant:  or User/Tenant:

All project employees of the general contractor, subcontractor, or sub to a subcontractor (contractors) working on the project must reside within the following counties in the State of New York: Monroe, Genesee, Livingston, Ontario, Orleans, Seneca, Wayne, Wyoming or Yates. The All-Local Labor criterion will be verified based on employment, payroll and related records.

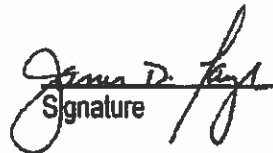
COMIDA understands that at certain times local labor may not be available within the local area. Under this condition, applicants are required to complete a waiver request of the All-Local Labor requirement prior to beginning construction. Contractors do not have to be local companies as defined herein, but must employ local people to qualify under the All-Local Labor criterion.

The foregoing terms have been read, reviewed and understood by the Applicant or User/Tenant and all appropriate personnel. Furthermore, the undersigned agrees and understands that the information contained herein must be transmitted and conveyed in a timely fashion to all applicable subcontractors, suppliers and materialman. Furthermore, the undersigned agrees to post and maintain a sign, provided by COMIDA, in a prominent, easily accessible location, identifying the project as a recipient of COMIDA assistance and the local labor requirements associated with this assistance.

Furthermore, the undersigned realizes that failure to abide by the terms herein could result in COMIDA revoking all or any portion of benefits it deems reasonable in its sole discretion for any violation hereof.

390 East CBM, LLC

(APPLICANT or USER/TENANT COMPANY)

  
Signature

Managing Membe  
, Title

2/27/2019  
Date



**IX. FEES**

**1. Application Fee - Send with Completed Application**

A non-refundable application fee of Three Hundred Fifty Dollars (\$350.00) shall be charged each applicant.

**2. Administrative Fee - Paid at Closing**

(a) For tax-exempt IRB bond issues, the fee shall be one percent (1%) of the project amount. For projects that utilize a Payment In Lieu of Taxes (PILOT) agreement, an additional one-quarter percent (1/4%) will be added.

(b) For lease/leaseback transactions and taxable bond issues, the fee shall be one-half percent (1/2%) of the project amount. For projects that utilize a Payment In Lieu of Taxes (PILOT) agreement, an additional one-quarter percent (1/4%) will be added.

(c) For refunding outstanding COMIDA bond issues, the fee shall be one-quarter percent (1/4%) of the new issuance amount.

3. If a sales tax letter is required prior to closing, a non-refundable twenty-five percent (25%) of the Administrative Fee and Agency Counsel fee is payable at that time. This amount will be applied towards the Administrative fee and Agency Counsel Fee. The Sales Tax Letter shall only be for a three (3) month period. If the project does not have a formal closing within three (3) months of the sales tax letter being issued, and an extension is not granted, the balance of the Administrative fee and Agency Counsel fee become immediately due and payable.

4. Agency Counsel fee is one-third (1/3) of the Agency's Administrative fee, with a minimum fee for a lease/leaseback transaction of \$4,000.00.

5. Designated Bond Counsel fee is based on the complexity and amount of the transaction.

390 EAST EBM LLC  
(APPLICANT or USER/TENANT COMPANY)

James D. King      MANAGING MEMBER      2/27/2019  
Signature      , Title      Date

## X. CERTIFICATION

The undersigned company officer and/or user/tenant officer each hereby certifies, on behalf of the company and/or user/tenant, respectively (each singularly and together, the "Applicant"), as follows:

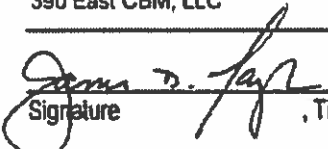
- A. The information contained in this Application, including employment information, is true and correct. The Applicant is aware that any material misrepresentation made in this Application constitutes an act of fraud, resulting in revocation of COMIDA benefits.
- B. The undersigned, on behalf of the Applicant, hereby certifies that the Applicant, and all parties which own a minimum of 20% of the Applicant are current and will remain current on all real property, federal, state, sales, income and withholding taxes throughout the term of any agreements made in connection with this Application.
- C. Compliance with N.Y. GML Sec. 862(1): Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:  
  
§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.
- D. Compliance with Applicable Laws: The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- E. False and Misleading Information: The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
- F. Recapture: Should the Applicant not expend as projected or hire as presented, the Agency may view such information/status as failing to meet the established standards of economic performance. In such events, some or all of the benefits taken by the Applicant will be subject to recapture.
- G. Applicant hereby releases the County of Monroe Industrial Development Agency ("Agency") from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, this Application, regardless of whether or not this Application or the Project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency; (B) the Agency's acquisition, construction, renovation and/or equipping of the Project described herein; and (C) any further action taken by the Agency with respect to the Project; including, without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law, that any New York State and local sales and use tax exemption claimed by the Applicant and approved by the Agency in connection with the Project may be subject to recapture by the Agency under such terms and conditions as will be set forth in the Agent Agreement to be entered into by and between the Agency and the Applicant. The Applicant further represents and warrants that the information contained in this

Application, including without limitation, information regarding the amount of New York State and local sales and use tax exemption benefits, is true, accurate and complete.

APPLICANT COMPANY

390 East CBM, LLC

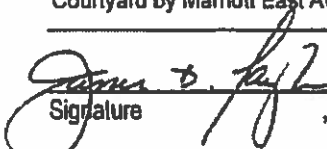
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Signature, Title Date  
2/27/2019

USER/TENANT COMPANY

Courtyard by Marriott East Avenue

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Signature, Title Date  
2/27/2019