

HARRIS BEACH PLLC
ATTORNEYS AT LAW

September 27, 2018

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

RACHEL C. BARANELLO

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RBARANELLO@HARRISBEACH.COM

Hon. Cheryl Dinolfo
Monroe County Executive
39 West Main Street
County Office Building
Rochester, New York 14614
CERTIFIED MAIL RECEIPT #:
91 7199 9991 7039 2302 9829

Ms. Susan Buck
Monroe County Treasury
B-3 County Office Building
39 West Main Street
Rochester, New York 14614
CERTIFIED MAIL RECEIPT #:
91 7199 9991 7039 2302 9836

Stephen L. Schultz, Supervisor
Town of Henrietta
475 Calkins Road
Henrietta, New York 14467
CERTIFIED MAIL RECEIPT #:
91 7199 9991 7039 2302 9843

Dr. J. Graham, Superintendent
Rush-Henrietta Central School District
2034 Lehigh Station Road
Henrietta, New York 14467
CERTIFIED MAIL RECEIPT#:
91 7199 9991 7039 2302 9850

Ms. Amy Jorstad, Assessor
Henrietta Town Hall
475 Calkins Road
Henrietta, New York 14467
CERTIFIED MAIL RECEIPT#:
91 7199 9991 7039 2302 9867

Re: County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA ("COMIDA") and 4000 River Road LLC Project; 4000 East River Road in the Town of Henrietta, New York

Ladies and Gentlemen:

Enclosed herewith please find a copy of the Payment In Lieu of Tax Agreement, the Application for Real Property Tax Exemption and COMIDA Checklist with respect to the above-captioned matter. Also enclosed for your perusal are copies of the as-recorded Memorandum of Lease and Memorandum of Leaseback.

Very truly yours,


Rachel C. Baranello

RCB/lap
Enclosures

cc: Imagine Monroe Powered By COMIDA
David F. Christa
Jerry Goldman, Esq.

**COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY
D/B/A IMAGINE MONROE POWERED BY COMIDA**

AND

4000 RIVER ROAD LLC

PAYMENT IN LIEU OF TAX AGREEMENT

Tax Account No.

174.010-0002-058.100

Dated as of August 1, 2018

Affected Tax Jurisdictions:

Monroe County
Town of Henrietta
Rush-Henrietta Central School District

PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT (the "PILOT Agreement"), dated as of the 1st day of August, 2018 is by and between the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA**, a public benefit corporation of the State of New York, having its offices at 8100 CityPlace, 50 West Main Street, Rochester, New York 14614 (the "Agency") and **4000 RIVER ROAD LLC**, a New York limited liability company with offices at 600 East Avenue, Suite 201, Rochester, New York 14607 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 55 of the Laws of 1972 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company has requested the Agency to assist in a certain project (the "Project") consisting of: (A) the acquisition of a leasehold interest in an approximately 12.42-acre parcel of land located at 4000 East River Road in the Town of Henrietta, New York [Tax Map No.: 174.01-2-58.1] (the "Land") together with the existing 102-unit student housing apartment complex thereon known as Racquet Club Apartments (the "Existing Improvements"); (B)(i) the renovation and modernization of the Existing Improvements including, but not limited to, new kitchens/baths and full furnishings and (ii) the construction of an additional 3-story approximately 125,000 square-foot building with 81-units of additional student housing (the "Improvements"); and (C) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the "Equipment" and, together with the Land and the Improvements, the "Facility"); to serve the students of Rochester Institute of Technology; all pursuant the Act; and

WHEREAS, the Agency has agreed to lease the Facility to the Company; 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 Agency for the benefit of Monroe County (the "County"), the Town of Henrietta (the "Town"), and the Rush-Henrietta School District (the "School" and, together 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, 2019**) (the "Taxable Status Date") of New York State Form RP-412-a "Application For Real Property Tax Exemption" (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Leased Premises shall be exempt from Real Estate Taxes commencing with the **2020** County and Town tax years and the **2019-2020** School tax year. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Leased Premises by the Affected Tax Jurisdictions. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Lease Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Leased Premises 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 Leased Premises is not impaired and the Leased Premises continues to qualify as a "project" under the Act; (ii) neither the Leased Premises 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/PILOT Payments. (i) As long as the Leased Premises is leased to the Agency or under its jurisdiction, control or supervision, the Company agrees to pay annually to the Agency for the benefit of the Affected Tax Jurisdictions (or 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 **2019-2020** School tax year and the invoice for the **2020** County and Town tax years, an amount equal to the Total PILOT Payment. The Company shall make all payments due hereunder without further notice or invoicing from the Agency, any Affected Tax Jurisdiction or any other party.

(ii) For purposes of this PILOT Agreement, each PILOT Payment shall be an amount equal to Shelter Rent multiplied by five percent (5%) for the first five (5) years of the PILOT term and ten percent (10%) for the balance of the PILOT term. The term "Shelter Rent" shall mean the total rents received from the occupants of the Facility minus the cost of providing electricity, gas, heat and other utilities but shall not include (a) the cost of any insurance in

connection with the Facility or (b) any utility or related costs incurred by any tenants or other occupants residing at the Facility.

(iii) *Company Certificate.* The Company shall submit with each PILOT Payment a certificate executed by the Company's chief financial or other similar officer showing the Company's calculation of the PILOT Payment for such year (each a "Tax Certificate"). The Tax Certificate shall further certify that no Event of Default (as defined in Section 6.1 herein) has occurred. The Company hereby agrees to provide any additional information requested by the Agency or its counsel not contained in the Tax Certificate as of its date of submission. The Company covenants to keep accurate records and books of account in accordance with generally accepted accounting principles consistently applied and to have its financial statements examined annually by an independent public accountant.

(iv) *Public Purpose.* 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. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder (if any) within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as 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 Agency 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 PILOT payment due date.

1.4 Valuation of Future Additions to the Leased Premises. If there shall be a future addition to the Leased Premises constructed or added in any manner after the date of this PILOT Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Leased Premises, the Company shall become liable for payment of an increase in the Total PILOT Payment. The Agency shall notify the Company of any proposed increase in the Total PILOT Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Agency, then and in that event that valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased PILOT payment until a different Total PILOT Payment shall be established. If a lesser Total Annual Payment is determined in any proceeding or by subsequent agreement of the parties, the Total PILOT Payment shall be re-computed and any excess payment shall be

refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding PILOT payment(s).

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the **2019-2020** School tax year through the **2048-2049** School tax year, and (ii) the **2020** County and Town tax years through the **2049** County and Town tax years. This PILOT Agreement shall expire on **December 31, 2049**; *provided, however*, the Company shall pay the **2049-2050** School tax bill and the **2050** 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 Leased Premises 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 Leased Premises which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b of the New York Real Property Tax Law ("RPTL"). 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 Leased Premises. In the event that the Leased Premises 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 Leased Premises if the Leased Premises 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 Leased Premises 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 Leased Premises 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 Leased Premises 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 The following shall constitute "Events of Default" hereunder. The failure by the Company to: (i) make the payments described in Section 1 hereof within thirty (30) days of the Payment Date (the "Delinquency Date"); (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; or (iii) cure the occurrence and continuance of any events of default under the Leaseback Agreement after the expiration of any applicable cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the General Municipal Law and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section 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 1 herein, if said payment is not received by the Delinquency Date as defined in Section 6.1 above, 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 or penalties and

interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

6.3 Upon the occurrence of an Event of Default hereunder, the liability of the Company hereunder shall be all amounts due to the Agency pursuant to Section 1 hereof through but not including the date on which the Facility is no longer exempt from Real Estate Taxes together with all other amounts due to the Agency pursuant to Section 6.2 hereof.

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 and all of 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
d/b/a Imagine Monroe Powered By COMIDA
8100 CityPlace, 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: 4000 River Road LLC
600 East Avenue, Suite 201
Rochester, New York 14607
Attn: David F. Christa, Manager

With a Copy to: Woods Oviatt Gilman LLP
700 Crossroads Building
2 State Street
Rochester, New York 14614
Attention: Jerry Goldman, 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 Leased Premises 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.

8.5 Benefit Period. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than thirty (30) consecutive years. The Company agrees that it will not seek any tax exemption for the Facility which would provide benefits for more than thirty (30) 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 its expiration.

8.6 Job Requirement.

(A) The Company must create one (1) new full-time/full-time equivalent job in three (3) years and maintain that one (1) new full-time job for the balance of the thirty (30) year term hereof. The benefits provided for herein and the three-year job creation period commence when the Facility is substantially complete such that it is reassessed by the Town of Henrietta Assessor at full value for the Facility.

(B) Compliance Report. The Company shall report its compliance with these provisions as requested by the Agency.

(C) Job Failure. If the one (1) new full-time/full-time equivalent job is not created by the end of the three (3) year period or not continuously maintained during the balance of the term hereof, the exemption schedule will revert back to Section 485-b of the New York Real Property Tax Law 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 Real Property Tax Law. Under extenuating circumstances, the Agency Board may waive the above penalties after reviewing a written request from the Company for waiver of the penalties.


(D) Waiver Process. The payments required hereunder for any non-compliance shall be paid by the Company to any and all Affected Taxing 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.

[Remainder of Page Intentionally Left Blank]

[Signature Page to PILOT Agreement]

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 D/B/A IMAGINE
MONROE POWERED BY COMIDA**

By: 
Name: Ann L. Burr
Title: Chairman

4000 RIVER ROAD LLC

By: 
Name: David F. Christa
Title: Manager



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)

County of Monroe Industrial Development Agency d/b/a
Name Imagine Monroe Powered By COMIDA
Street 8100 CityPlace, 50 West Main Street
City Rochester, New York 14614
Telephone no. Day (585) 419-8769
Evening ()
Contact Rachel C. Baranello
Title Agency Counsel

2. OCCUPANT (IF OTHER THAN IDA)

(If more than one occupant attach separate listing)

Name 4000 River Road LLC
Street 600 East Avenue, Suite 201
City Rochester, New York 14607
Telephone no. Day (585) 330-6203
Evening ()
Contact David F. Christa
Title Manager

3. DESCRIPTION OF PARCEL

a. Assessment roll description (tax map no./roll year)
174.010-0002-058.100
b. Street address
4000 East River Road
c. City, Town or Village Henrietta (Town)

d. School District Rush-Henrietta 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 September 19, 2018.

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

a. Brief description (include property use) renovation of an existing approx. 90,432 sf apartment
complex and construction of an additional approx. 125,000 sf apartment building.
b. Type of construction
c. Square footage approx. 125,000 sf
d. Total cost approx. \$30,018,546
e. Date construction commenced Summer 2018
f. Projected expiration of exemption (i.e.
date when property is no longer
possessed, controlled, supervised or
under the jurisdiction of IDA)
See Attached PILOT Agreement

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

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

a. Formula for payment See Attached PILOT Agreement

b. Projected expiration date of agreement See Attached PILOT Agreement

c. Municipal corporations to which payments will be made

	Yes	No
County <u>Monroe</u>	X	
Town/City <u>Henrietta (Town)</u>	X	
Village <u>N/A</u>		
School District <u>Rush-Henrietta SD</u>	X	

d. Person or entity responsible for payment

Name 4000 River Road LLC
 Title _____
 Address 600 East Avenue, Suite 201
Rochester, New York 14607

e. Is the IDA the owner of the property? Yes/No (circle one)
If "No" identify owner and explain IDA rights or interest in an attached statement. The IDA has a leasehold interest in the property.

Telephone (585) 330-6203

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) Yes No

If yes, list the statutory exemption reference and assessment roll year on which granted:
exemption Section 874 of NY GML assessment roll year _____

7. A copy of this application, including all attachments, has been mailed or delivered on 9/27/18 (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 the County of Monroe

Name Title

Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA hereby certify that the information
Organization

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

9/19/18
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

MEMORANDUM

September 27, 2018

TO: Susan Buck, Monroe County Treasury
FROM: Rachel C. Baranello
RE: COMIDA Checklist

-
1. NAME OF COMPANY: 4000 River Road LLC
 2. MONTH & YEAR OPENED: September, 2018
 3. YEAR OF FIRST BILLING: Please see attached PILOT Agreement
 4. YEAR COMIDA ENDING: Please see attached PILOT Agreement
 5. SPECIAL INSTRUCTIONS: Please see attached PILOT Agreement
 6. TAX ACCOUNT NUMBER: 174.010-0002-058.100

Document Type: MEMO OF LEASE

Document Status: Verify with OCR

Recorded Date: 09/19/2018 09:47:41 AM

Control Number: 201809190133

T/T #: TT0000003127

Book / Page: D 12083 0199

Consideration: \$1.00

Notations:

Town Additional:

Legal Desc:

Land Notations:

Notes:

Submitter: METRO REAL ESTATE SERVICES OF WESTE

Name Information

Grantor:

4000 RIVERS ROAD LLC

Grantee:

COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY
IMAGINE MONROE POWERED BY COMIDA

**MEMORANDUM OF LEASE PURSUANT TO
SECTION 291-c OF THE REAL PROPERTY LAW**

(Company to Agency)

THIS MEMORANDUM, dated as of August 1, 2018 (the "Memorandum of Lease"), is by and between **4000 RIVER ROAD LLC**, a New York limited liability company, with offices at 600 East Avenue, Suite 201, Rochester, New York 14607 (the "Company") and the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA**, a public benefit corporation of the State of New York, having its offices at 8100 CityPlace, 50 West Main Street, Rochester, New York 14614 (the "Agency").

1. Reference to Lease: That certain Lease Agreement, dated as of August 1, 2018 (the "Lease Agreement"), whereby the Company leases certain real property to the Agency.

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

3. Term of Lease Agreement: Commencing August 1, 2018 and ending **December 31, 2049**.

4. Date of Commencement: August 1, 2018.

5. Date of Termination: December 31, 2049.

6. Rights of Extension or Renewal: None.

7. Lease Subordinate. The Lease Agreement is subject and subordinate to (i) a certain Construction Loan Mortgage, dated August 24, 2018, from the Company and the Agency to Five Star Bank (the "Mortgage") which is intended to be recorded in the office of the Monroe County Clerk subsequent to the recording of this Memorandum; (ii) a certain related Assignment of Leases, Rents and Profits, dated the date of the Mortgage (the "Assignment"), between the Agency, the Company and the Mortgagee; and (iii) that certain Leaseback Agreement, dated as of August 1, 2018, between the Agency and the Company (the "Leaseback Agreement").

Property Address: 4000 East River Road, Henrietta, New York 14623

Tax Map No.: 174.01-2-58.1

Record and Return to:


Harris Beach PLLC

Attention: Lori A. Palmer, Paralegal

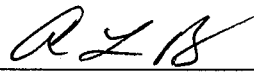
County Clerk Box #18

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

4000 RIVER ROAD LLC


By: 
Name: David F. Christa
Title: Manager

**COUNTY OF MONROE INDUSTRIAL
DEVELOPMENT AGENCY D/B/A IMAGINE
MONROE POWERED BY COMIDA**

By: 
Name: Ann L. Burr
Title: Chairman

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

On the 23rd day of August, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared **David F. Christa**, 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.

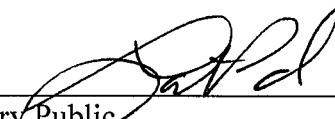


Notary Public

Lori A. Palmer
Notary Public, State of New York
Qualified in Monroe County
Commission Expires May 31, 2019

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

On the 23rd day of August, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared **Ann L. Burr**, 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.



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Schedule A

Legal Description of the Leased Premises

RIVERS RUN SUBDIVISION - LOT 1 (Athenaeum Parcel) - Tax Map #174.01-02-58.1

ALL THAT TRACT OR PARCEL OF LAND situate and being part of Town Lot 13, Sixth Range, Township 12, Range 7 in the Town of Henrietta, County of Monroe and State of New York and being more particularly bounded and described as follows:

BEGINNING AT A POINT on the westerly highway boundary of East River Road, County Route 84 (66 feet wide), said point being on the southerly property line of lands now or formerly owned by Rochester Institute of Technology (See Tax Map No. 174.01-02-58) as filed in the Monroe County Clerk's Office in Liber 7244 of Deeds at page 4;

THENCE (1) South 87° 34' 43" West and along the southerly property line of said lands of the Rochester Institute of Technology a distance of 950.33 feet to a point;

THENCE (2) North 02° 25' 17" West a distance of 186.71 feet to a point;

THENCE (3) North 24° 47' 43" East a distance of 253.41 feet to a point;

THENCE (4) North 56° 06' 01" East a distance of 252.93 feet to a point;

THENCE (5) North 01° 48' 32" West a distance of 224.79 feet to a point on the northerly boundary line of lands now or formally owned by 13ml'tester Institute of Technology (See Tax Map No. 174.01-02-58);

THENCE (6) North 88° 11' 28" East a distance of 414.33 feet to a point;

THENCE (7) South 03° 22' 32" East a distance of 349.08 feet, to a point;

THENCE (8) North 86° 37' 28" East a distance of 189.25 feet to a point on the westerly highway boundary of East River Road;

THENCE (9) Southerly, along westerly highway boundary of East River Road a distance of 418.66 feet to the **PLACE AND POINT OF BEGINNING**.

All as shown as Lot No. 1 on a map entitled "Rivers Run Subdivision Nat" prepared by Environmental, Design & Research, P.C. and filed in the Monroe County Clerk's Office on December 8, 2004 at Liber 322 of Maps at page 60 and as shown on an ALTA/NSPS Land Title Survey Map made by Passero Associates, dated June 9, 2017, being Project No. 20172413.0001.

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Notations:

Town Additional:

Legal Desc:

Land Notations:

Notes:

Submitter: METRO REAL ESTATE SERVICES OF WESTE

Name Information

Grantor:

4000 RIVERS ROAD LLC
COUNTY OF MONROE INDUSTRIAL DEVELOPEMENT AGENCY
IMAGINE MONROE POWERED BY COMIDA

Grantee:

4000 RIVERS ROAD LLC
COUNTY OF MONROE INDUSTRIAL DEVELOPEMENT AGENCY
IMAGINE MONROE POWERED BY COMIDA

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

THIS MEMORANDUM, dated as of August 1, 2018 (the "Memorandum of Leaseback"), is by and between the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA**, a public benefit corporation duly organized and existing under the laws of the State of New York with offices at 8100 CityPlace, 50 West Main Street, Rochester, New York 14614, as Lessor (the "Agency"), and **4000 RIVER ROAD LLC**, a New York limited liability company, with offices at 600 East Avenue, Suite 201, Rochester, New York 14607 (the "Company").

1. Reference to Leaseback: That certain Leaseback Agreement, dated as of August 1, 2018 (the "Leaseback Agreement"), whereby the Agency leases certain real property and improvements back to the Company.

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

3. Term of Leaseback Agreement: Commencing August 1, 2018 and ending **December 31, 2049**.

4. Date of Commencement: August 1, 2018.

5. Date of Termination: December 31, 2049.

6. Rights of Extension or Renewal: None.

7. Leaseback Subordinate. The Leaseback Agreement is subject and subordinate to (i) a certain construction loan mortgage, dated August 24, 2018 (the "Mortgage"), from the Company and the Agency to Five Star Bank (the "Mortgagee"), which is intended to be recorded in the office of the Monroe County Clerk subsequent to the recording of this Memorandum and (ii) a certain related assignment of leases, rents and profits, dated the date of the Mortgage (the "Assignment").

The Leaseback Agreement is available for inspection during normal business hours at the offices of the Agency indicated above.

Property Address: 4000 East River Road, Henrietta, New York 14623

Tax Map No.: 174.01-2-58.1

Record and Return to:


Harris Beach PLLC

Attention: Lori A. Palmer, Paralegal

County Clerk Box #18

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

**COUNTY OF MONROE INDUSTRIAL
DEVELOPMENT AGENCY D/B/A IMAGINE
MONROE POWERED BY COMIDA**

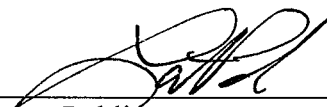
By: 
Name: Ann L. Burr
Title: Chairman

4000 RIVER ROAD LLC

By: 
Name: David F. Christa
Title: Manager

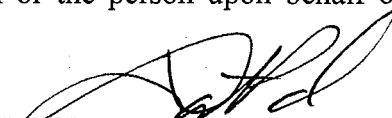
STATE OF NEW YORK)
COUNTY OF MONROE) ss.:

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Notary Public
Lori A. Palmer
Notary Public, State of New York
Qualified in Monroe County
Commission Expires May 31, 2019

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

On the 23rd day of August, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared **David F. Christa**, 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.


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