

HARRIS BEACH PLLC
ATTORNEYS AT LAW

February 13, 2020

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PITTSFORD, NY 14534
(585) 419-8800

RACHEL C. BARANELLO, ESQ.

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RBARANELLO@HARRISBEACH.COM

Hon. Adam Bello
Monroe County Executive
39 West Main Street
County Office Building
Rochester, New York 14614
CERTIFIED MAIL RECEIPT #:
9489 0090 0027 6197 6376 67

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 6197 6376 74

Ms. Lovely Warren, Mayor
City of Rochester
City Hall, 30 Church Street
Rochester, New York 14614
CERTIFIED MAIL RECEIPT #:
9489 0090 0027 6197 6376 81

Mr. Randy Webb
Bureau of Accounting
30 Church Street, Room 106-A
Rochester, New York 14614
CERTIFIED MAIL RECEIPT #:
9489 0090 0027 6197 6376 98

Mr. Michael Zazzara, Assessor
City Hall, Room 101A
30 Church Street
Rochester, New York 14614
CERTIFIED MAIL RECEIPT #:
9489 0090 0027 6197 6377 04

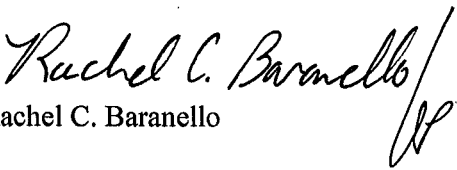
Mr. Terry J. Dade, Superintendent
Rochester City School District
131 West Broad Street
Rochester, New York 14614
CERTIFIED MAIL RECEIPT #:
9489 0090 0027 6197 6377 11

Re: County of Monroe Industrial Development Agency d/b/a Imagine Monroe
("COMIDA") and 390 East CBM, LLC;
390 East Avenue and 350 Alexander Street in the City of Rochester, New York.

Ladies and Gentlemen:

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

Very truly yours,


Rachel C. Baranello

RCB/lap
Enclosures

cc: Imagine Monroe
E. Philip Saunders
W. Stephen Tierney, Esq.

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

AND

390 EAST CBM, LLC

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Tax Map Nos.

121.260-0001-038.002

121.260-0001-037.003

Affected Taxing Jurisdictions:

County of Monroe

City of Rochester

Dated as of January 1, 2020

PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT (the "PILOT Agreement") made as of January 1, 2020, is by and between the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE**, 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 **390 EAST CBM, LLC**, a limited liability company formed and validly existing under the laws of the State of New York with offices at 762 Brooks Avenue, Rochester, New York 14619 (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") all as more particularly described in an application dated February 27, 2019 (the "Application") consisting of: (A) the acquisition of a leasehold interest in an approximately 1.68-acre parcel of land located at 390 East Avenue and 350 Alexander Street in the City of Rochester, New York (the "Land") together with the East Avenue Inn located thereon (the "Existing Improvements"); (B)(i) the demolition of the Existing Improvements and (ii) the construction in its place of a 4-story Courtyard by Marriott Hotel (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"); 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 Legislature of the County of Monroe by Resolution No. 154 of 1989 has adopted a revised tax abatement policy which was modified and readopted by the Agency in June 2000 (the "JobsPlus Tax Abatement Policy," sometimes hereinafter referred to as "JobsPlus") for industrial and/or commercial property leased, licensed and/or owned by the Agency; and

WHEREAS, the Facility meets the criteria of the JobsPlus Tax Abatement Policy; 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") and the City of Rochester (the "City" and, collectively with the County, the "Affected Taxing Jurisdictions").

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

Section 1 - Payment in Lieu of Ad Valorem Taxes.

Section 1.1 A. Subject to the completion and filing by the taxable status date (**February 1, 2020**) (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 **2022** County tax year and the **2021-2022** City tax year. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the County and City. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in that certain Lease Agreement, dated as of the date hereof, between the Company and the Agency (the "Lease Agreement") to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Agency to file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date.

B. Payee. As long as the Facility is leased to the Agency or under its jurisdiction, control or supervision, the Company agrees to pay annually directly to the Affected Taxing 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 **2021-2022** City tax year and the invoice for the **2022** County tax year, an amount equal to the Total Tax Payment, as set forth on Schedule A attached hereto and made a part hereof. The Company shall make all payments due hereunder without further notice or invoicing from the Agency, any Affected Tax Jurisdiction or any other party, other than the invoices described above.

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 Taxing Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls.

1.2 Allocation. The Agency shall remit to the Affected Taxing Jurisdictions amounts received hereunder (if any) within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Taxing Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Taxing Jurisdictions have consented in writing to a specific allocation.

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

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the **2021-2022** City tax year through the **2030-2031** City tax year, and (ii) the **2022** County tax year through the **2031** County tax year. This PILOT Agreement shall expire on **December 31, 2031**; *provided, however*, the Company shall pay the **2031-2032** City tax bill and the **2032** County tax bill 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 RPTL. It is hereby agreed and understood that the Affected Taxing 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 Taxing 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 Taxing 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 Taxing 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 Affected 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 Leaseback Agreement, dated as of the date hereof, by and between the Agency and the Company (the "Leaseback Agreement"), the Agency shall have the right to recapture real property tax abatements provided hereunder pursuant to the following schedule:

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

Any such recapture is at the sole and exclusive discretion of the Agency. The Agency shall notify the Company in writing of such Event of Default and of its intent to recapture the real property tax abatements provided hereunder (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 Application, to wit, eighteen (18). Any and all recaptured payments received pursuant to this provision shall be remitted to the Affected Taxing Jurisdictions on a pro rata basis within sixty (60) days of receipt of payment.

6.2 If payments pursuant to Section 6.1 herein are not made by the due dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows: With respect to payments to be made pursuant to Section 6.1 herein, if said payment is not received by the due date defined in Section 6.1 herein, the Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus a late payment penalty, in an amount equal to one percent (1%) of the amount due per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, the Company shall pay, in addition to said payment, the greater of the applicable penalties and interest hereunder, or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Taxing 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
d/b/a Imagine Monroe
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: 390 East CBM, LLC
762 Brooks Avenue
Rochester, New York 14619
Attention: E. Philip Saunders, President

With a Copy to: Woods Oviatt Gilman LLP
1900 Bausch & Lomb Place
Rochester, New York 14604
Attention: 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 eighteen (18) full-time jobs in Monroe County, New York, and the Company shall create 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) 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 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 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.

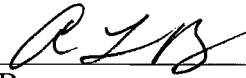
9.4 Waiver Process. The payments required hereunder for any non-compliance shall be paid by the Company to any and all Affected Taxing Jurisdictions whether or not billed. However, if the Company has made a good faith effort to achieve the job creation requirement, it may apply in writing for relief 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.

9.5 Benefit Period. 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.

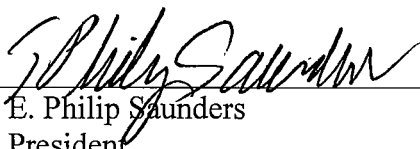
[Remainder of Page Intentionally Left Blank]

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 D/B/A IMAGINE
MONROE**

By: 
Name: Ann L. Burr
Title: Chairman

390 EAST CBM, LLC

By: 
Name: E. Philip Saunders
Title: President

SCHEDULE A
TO PILOT AGREEMENT DATED AS OF JANUARY 1, 2020
BY AND BETWEEN THE
COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A
IMAGINE MONROE AND 390 EAST CBM, LLC

"Total Tax Payment" shall be calculated as follows:

<u>Tax Year</u>	<u>County Tax Year</u>	<u>City Tax Year</u>	<u>Total Taxable Valuation</u>
Year 1	2022	2021/2022	Base Valuation, plus (Added Value x .10)
Year 2	2023	2022/2023	Base Valuation, plus (Added Value x .20)
Year 3	2024	2023/2024	Base Valuation, plus (Added Value x .30)
Year 4	2025	2024/2025	Base Valuation, plus (Added Value x .40)
Year 5	2026	2025/2026	Base Valuation, plus (Added Value x .50)
Year 6	2027	2026/2027	Base Valuation, plus (Added Value x .60)
Year 7	2028	2027/2028	Base Valuation, plus (Added Value x .70)
Year 8	2029	2028/2029	Base Valuation, plus (Added Value x .80)
Year 9	2030	2029/2030	Base Valuation, plus (Added Value x .90)
Year 10	2031	2030/2031	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 related to the Project (the "Base Valuation"). During the term of this PILOT Agreement, the Base Valuation shall be increased from time to time by the percentage increase in the assessed valuation in all taxable real property in the City of Rochester, Monroe County, New York, as of the respective tax status date for the tax year for which the recalculation is being made. The Total Taxable Valuation (as defined below) for each Total Tax Payment shall be calculated such that a graduated abatement factor ("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 Tax 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 10, the Project Facility shall be subject to full taxation by the Affected Taxing Jurisdictions.

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

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



INDUSTRIAL DEVELOPMENT AGENCIES
APPLICATION FOR REAL PROPERTY TAX EXEMPTION
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)

Name County of Monroe Industrial Development Agency
d/b/a Imagine Monroe
Street 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 390 East CBM, LLC
Street 762 Brooks Avenue
City Rochester, New York 14619
Telephone no. Day (585) 330-9801
Evening ()
Contact E. Philip Saunders
Title President

3. DESCRIPTION OF PARCEL

- a. Assessment roll description (tax map no./roll year) 121.260-0001-038.002
b. Street address 390 East Avenue
c. City, Town or Village Rochester (City)
d. School District Rochester CSD
e. County Monroe
f. Current assessment \$1,450,000
g. Deed to IDA (date recorded; liber and page) Lease Agreement, a memorandum of which was recorded on or about February 5, 2020.

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

- a. Brief description (include property use) construction of a four-story Courtyard By Marriott hotel
b. Type of construction
c. Square footage
d. Total cost \$22,000,000
e. Date construction commenced Winter 2019/20
f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA) See Attached PILOT Agreement

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

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

- a. Formula for payment See Attached PILOT Agreement
b. Projected expiration date of agreement See Attached PILOT Agreement

c. Municipal corporations to which payments will be made

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

d. Person or entity responsible for payment

Name 390 East CBM, LLC
 Title _____
 Address 762 Brooks Avenue
Rochester, New York 14619

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 585-330-9801

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

If yes, list the statutory exemption reference and assessment roll year on which granted:
exemption Section 485-a of the NY assessment roll year _____
Real Property Tax Law

7. A copy of this application, including all attachments, has been mailed or delivered on 2/13/2020 (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 _____

County of Monroe Industrial Development Agency d/b/a Imagine Monroe hereby certify that the information
Organization

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

2/5/2020
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

Receipt # 2340215

Book Page D 12306 0309

No. Pages: 4

Instrument: MEMO OF LEASE

Control #: 202002050215

Ref #: TT0000012988

Date: 02/05/2020

Time: 9:35:37 AM

390 EAST CBM LLC,
COUNTY OF MONROE INDUSTRIAL DEVELOPMENT
AGENCY,
IMAGINE MONROE,

390 EAST CBM LLC,
COUNTY OF MONROE INDUSTRIAL DEVELOPMENT
AGENCY,
IMAGINE MONROE,

Recording Fee	\$26.00	
Pages Fee	\$15.00	
State Fee Cultural Education	\$14.25	
State Fee Records Management	\$4.75	Employee: DA
TP-584 Form Fee	\$5.00	
Total Fees Paid:	\$65.00	

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

REBECCA CASE CAICO

ACTING MONROE COUNTY CLERK



S

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

THIS MEMORANDUM, dated as of January 1, 2020 (the "Memorandum of Lease"), is by and between **390 EAST CBM, LLC**, a limited liability company formed and validly existing under the laws of the State of New York with offices at 762 Brooks Avenue, Rochester, New York 14619 (the "Company") and the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE**, a public benefit corporation of the State of New York, having its offices at 50 West Main Street, Rochester, New York 14614 (the "Agency").

1. Reference to Lease: That certain Lease Agreement, dated as of January 1, 2020 (the "Lease Agreement"), whereby the Company leases the Leased Premises (as hereinafter defined) to the Agency.

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

3. Term of Lease Agreement: Commencing January 1, 2020 and ending **December 31, 2031**.

4. Date of Commencement: January 1, 2020.

5. Date of Termination: December 31, 2031.

6. Rights of Extension or Renewal: None.

7. Lease Subordinate. The Lease Agreement is subject and subordinate to (i) a certain Mortgage, dated January 24, 2020, from the Company and the Agency to ESL Federal Credit Union (the "Mortgagee") which is intended to be recorded in the office of the Monroe County Clerk subsequent to the recording of this Memorandum; (ii) a certain related Assignment of Leases and Rents, dated the date of the Mortgage (the "Assignment"), between the Agency, the Company and the Mortgagee; and (iii) that certain Leaseback Agreement, dated as of January 1, 2020, between the Agency and the Company (the "Leaseback Agreement").

Property Addresses: 390 East Avenue, Rochester, New York 14607 and 350 Alexander Street, Rochester, New York 14607

Tax Map Nos.: 121.260-0001-038.002 and 121.260-0001-037.003, respectively

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

RECORDED
Time: 9:35

FEB 05 2020

Monroe County Clerk's Office

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.

390 EAST CBM, LLC

By: *E. Philip Saunders*
Name: E. Philip Saunders
Title: President

COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE

By: *Ann L. Burr*
Name: Ann L. Burr
Title: Chairman

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

On the 24th day of January, 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared **E. Philip Saunders**, 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.

Lori A. Palmer
Notary Public

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

Lori A. Palmer
Notary Public, State of New York
Qualified in Monroe County
Commission Expires May 31, 2023

On the 23rd day of January, 2020, 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.

Lori A. Palmer
Notary Public

Lori A. Palmer
Notary Public, State of New York
Qualified in Monroe County
Commission Expires May 31, 2023

Schedule A

Legal Description of the Leased Premises

390 East Avenue**Tax Account No. 121.26-1-38.002**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Rochester, County of Monroe and State of New York, bounded and described as Lot 2 of the City Grill Subdivision filed on February 6, 2017 in the Monroe County Clerk's Office in Liber 353 of Maps, page 94.

350 Alexander Street**Tax Account No. 121.26-1-37.003**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Rochester, County of Monroe and State of new York, bounded and described as Lot 2 of the Billone-Charlson Subdivision as shown on a subdivision map last dated September 27, 2018 and recorded in the Monroe County Clerk's Office on October 11, 2018 in Liber 357 of Maps, page 41.

TOGETHER WITH the benefits and subject to the burdens of a certain Easement Agreement for Ingress, Egress & Parking by and between City East LLC and 384 East Avenue Inn of Rochester, LLC dated February 22, 2017 and recorded February 23, 2017 in Liber 11824 of Deeds, page 507, as amended by a certain Amended and Restated Easement Agreement for Ingress, Egress & Parking by and between City East LLC and 384 East Avenue Inn of Rochester, LLC dated October 10, 2019 and recorded October 15, 2019 in Liber 12254 of Deeds, page 451.

MONROE COUNTY CLERK'S OFFICE

THIS IS NOT A BILL. THIS IS YOUR RECEIPT.

Return To:
BOX 18

Receipt # 2340215

Book Page D 12306 0313

No. Pages: 4

Instrument: MEMO OF SUB LEASE

Control #: 202002050216

Ref #: TT0000012989

Date: 02/05/2020

Time: 9:35:38 AM

390 EAST CBM LLC,
COUNTY OF MONROE INDUSTRIAL DEVELOPMENT
AGENCY,
IMAGINE MONROE,

390 EAST CBM LLC,
COUNTY OF MONROE INDUSTRIAL DEVELOPMENT
AGENCY,
IMAGINE MONROE,

Recording Fee	\$26.00	
Pages Fee	\$15.00	
State Fee Cultural Education	\$14.25	
State Fee Records Management	\$4.75	Employee: DA
TP-584 Form Fee	\$5.00	
Total Fees Paid:	\$65.00	

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

REBECCA CASE CAICO

ACTING MONROE COUNTY CLERK



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

§

THIS MEMORANDUM, dated as of January 1, 2020 (the "Memorandum of Leaseback"), is by and between the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE**, a public benefit corporation duly organized and existing under the laws of the State of New York with offices at 50 West Main Street, Rochester, New York 14614, as Lessor (the "Agency"), and **390 EAST CBM, LLC**, a limited liability company formed and validly existing under the laws of the State of New York with offices at 762 Brooks Avenue, Rochester, New York 14619, as Lessee (the "Company").

1. Reference to Leaseback: That certain Leaseback Agreement, dated as of January 1, 2020 (the "Leaseback Agreement"), whereby the Agency leases certain real property and improvements back to the Company.

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

3. Term of Leaseback Agreement: Commencing January 1, 2020 and ending **December 31, 2031**.

4. Date of Commencement: January 1, 2020.

5. Date of Termination: December 31, 2031.

6. Rights of Extension or Renewal: None.

7. Leaseback Subordinate. The Leaseback Agreement is subject and subordinate to (i) a certain Mortgage, dated January 24, 2020 (the "Mortgage"), from the Company and the Agency to ESL Federal Credit Union (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 and rents, dated the date of the Mortgage (the "Assignment").

Property Addresses: 390 East Avenue, Rochester, New York 14607 and 350 Alexander Street, Rochester, New York 14607

Tax Map Nos.: 121.260-0001-038.002 and 121.260-0001-037.003, respectively

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

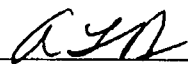
RECORDED
Time: 9:35

FEB 05 2020

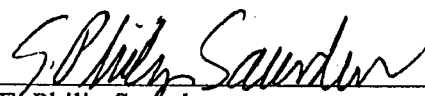
Monroe County Clerk's Office

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


By: 
Name: Ann L. Burr
Title: Chairman

390 EAST CBM, LLC

By: 
Name: E. Philip Saunders
Title: President

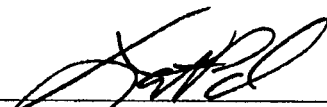
STATE OF NEW YORK)
COUNTY OF MONROE) ss.:

On the 23rd day of January, 2020, 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.


Notary Public
Lori A. Palmer
Notary Public, State of New York
Qualified in Monroe County
Commission Expires May 31, 2023

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

On the 24th day of January, 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared **E. Philip Saunders**, 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, 2023

Schedule A

Legal Description of Leased Premises

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350 Alexander Street**Tax Account No. 121.26-1-37.003**

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