

Motion By: J. Popli
Seconded By: L. Bolzner

RESOLUTION
(10 Franklin Street, LLC)

A regular meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency"), was held at the Riverwood Tech Campus, 4545 East River Road, Henrietta, New York 14623, on June 18, 2019.

After the meeting had been duly called to order, the Chair announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a certain Project more particularly described below.

RESOLUTION OF THE COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON JUNE 17, 2019, WITH RESPECT TO THE 10 FRANKLIN STREET, LLC (THE "COMPANY") PROJECT (THE "PROJECT"); (ii) MAKING A DETERMINATION WITH RESPECT TO THE PROJECT PURSUANT TO SEQRA (AS DEFINED BELOW); (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, RENOVATION AND EQUIPPING OF THE PROJECT AND (B) A MORTGAGE RECORDING TAX EXEMPTION; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 55 of the Laws of 1972 of the State of New York (collectively, the "Act"), the Agency was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, **10 FRANKLIN STREET, LLC**, a New York limited liability company, for itself or an entity formed or to be formed (collectively, the "Company"), submitted an application, attached hereto as **Exhibit A**, to the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency") requesting the Agency to assist with a certain project (the "Project") consisting of: (A) the acquisition of a leasehold interest in a portion of an approximately 0.12-acre parcel of land located at 10 Franklin Street in the City of Rochester, Monroe County, New York 14604 (the "Land") together with the existing two-story approximately 30,000 square-foot building thereon (the "Existing Improvements"); (B) the renovation and modernization of the Existing Improvements including (i) the conversion of the second floor of the building into residential units consisting of: one 2,200 square foot three-bedroom unit, one 1,900 square-foot two-bedroom unit and one 3,000 square-foot two-bedroom

unit with a den and (ii) conversion of the basement into a fitness studio (collectively, 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, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, pursuant to Section 859-a of the Act, on Monday, June 17, 2019, at 10:30 a.m., local time, at the Ebenezer Watts Conference Center, 49 S. Fitzhugh Street, Rochester, New York 14614, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Public Hearing"), whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; a copy of the Notice of Public Hearing published in the *City Newspaper*, the affidavit of publication of such newspaper, and Minutes of the Public Hearing are attached hereto as **Exhibit B**; and

WHEREAS, it is contemplated that the Agency will (i) negotiate an agent agreement (the "Agent Agreement"), pursuant to which the Agency will appoint the Company as its agent for the purpose of acquiring, renovating and equipping the Project, (ii) negotiate and enter into a lease agreement (the "Lease Agreement") and leaseback agreement (the "Leaseback Agreement") with the Company, (iii) take title to or a leasehold interest in the Land, the Improvements and personal property constituting the Facility (once the Lease Agreement and Leaseback Agreement have been negotiated), and (iv) provide financial assistance (the "Financial Assistance") to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Facility and (b) a mortgage recording tax exemption for financing relating to the Project; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project.

NOW, THEREFORE, BE IT RESOLVED by the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA as follows:

Section 1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's application and other correspondence submitted by the Company to the Agency, the Agency hereby finds and determines that:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Facility constitutes a "project", as such term is defined in the Act; and

(c) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, renovating and equipping the Project; and

(d) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Monroe County and otherwise furthering the purposes of the Agency as set forth in the Act; and

(e) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(f) The Project involves a Type II Action" as said term is defined in SEQRA, and therefore no further action is required to be taken under SEQRA.

Section 2. The Agency hereby determines that the acquisition of a leasehold interest in and the renovation, equipping, repair and maintenance of the Facility by the Agency and the lease or sublease of the Facility to the Company will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the County of Monroe and the people of the State of New York and improve their standard of living, thereby serving the public purposes of the Act and, therefore, the same is approved.

Section 3. The Agency hereby approves the cost/benefit report submitted by the Company listing the proposed cost/benefits of the Project.

Section 4. Subject to the Company executing the Agent Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, renovation and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency to acquire, renovate and equip the Facility, and such appointment includes the following activities as they relate to the construction, erection, completion, use, repair and maintenance of the Improvements and the purchase, use, lease, placement, installation, repair, maintenance and replacement of the Equipment, whether or not any materials or supplies described below are incorporated into or become an integral part of the Improvements or the Equipment: (i) all purchases, leases, rentals and other uses of tools,

machinery and equipment in connection with acquiring, constructing, equipping, repairing and maintaining the Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description in connection with acquiring, renovating, equipping, repairing and maintaining the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the Improvements, Land or the Equipment, including all repairs, maintenance and replacement of all such property. Said agents are authorized to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agents for the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and with the same validity as the Agency could do if acting on its own behalf. As agent of the Agency, the Company is authorized to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses; provided, however, the Agent Agreement shall expire on **June 30, 2020** (unless extended for good cause by the Executive Director, Chairman or Vice Chairman of the Agency) if the Lease Agreement and Leaseback Agreement contemplated have not been executed and delivered. The Executive Director, Chairman or Vice Chairman of the Agency are authorized and directed to execute and deliver to said agent an appropriate letter on Agency letterhead describing the authority granted under this resolution.

Section 5. Based upon the representation and warranties made by the Company in its application for financial assistance, the Agency hereby authorizes and approves (i) the Company as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$806,000**, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed **\$64,480**; and (ii) a mortgage tax exemption in connection with the financing of the Facility or portions thereof and including any refinancing thereof not to exceed **\$8,250**.

Section 6. The Agency also hereby authorizes and approves the Tenant, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$228,500**, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed **\$18,280**.

Section 7. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company and/or the Tenant, their respective agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company and/or the Tenant, their respective agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company and/or the Tenant, their respective agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of

the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company and/or the Tenant, their respective agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving sales and use tax exemption benefits, the Company and/or the Tenant, their respective agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 8. The form and substance of the Lease Agreement and the Leaseback Agreement (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 9. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (A) the Lease Agreement whereby the Company leases the Project to the Agency and (B) the related Leaseback Agreement conveying the Project back to the Company; provided, that, the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

Section 10. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance equipment and other personal property and related transactional costs (hereinafter, with the Lease Agreement and Leaseback Agreement are collectively referred to as, the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency (if any) to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Executive Director, Chairman or Vice Chairman of the Agency shall approve, the execution thereof by the Executive Director, Chairman or Vice Chairman of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 11. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of such Executive Director, Chairman or Vice Chairman of the Agency acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 12. This resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Jay Popli	X			
Anthony Meleo	X			
Troy Milne	X			
Jared Lusk			X	
Lisa Bolzner	X			
Ann L. Burr	X			

The Resolutions were thereupon duly adopted.

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

I, the undersigned Executive Director of the County of Monroe Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency"), including the resolutions contained therein, held on June 18, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Lease Agreement and the Leaseback Agreement contained in this transcript of proceedings are each in substantially the form presented to the Agency and approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with Sections 103 and 104 of the New York Public Officers Law (Open Meetings Law) that all members of the Agency had due notice of the meeting and that the meeting was in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand on this 18th day of June, 2019.



Jeffrey R. Adair, Executive Director

EXHIBIT A
APPLICATION
[See Attached]

EXHIBIT B

NOTICE DOCUMENTS

[See Attached]

Motion By: T. Milne
Seconded By: A. Meleo

RESOLUTION
(Fieldtex Products Inc.)

A regular meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency"), was held at the Riverwood Tech Campus, 4545 East River Road, Henrietta, New York 14623, on June 18, 2019.

After the meeting had been duly called to order, the Chair announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a certain Project more particularly described below.

RESOLUTION OF THE COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON JUNE 18, 2019, WITH RESPECT TO THE FIELDTEX PRODUCTS INC. (THE "COMPANY") PROJECT (THE "PROJECT"); (ii) MAKING A DETERMINATION WITH RESPECT TO THE PROJECT PURSUANT TO SEQRA (AS DEFINED BELOW); (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, RENOVATION AND EQUIPPING OF THE PROJECT, (B) IF NECESSARY, A MORTGAGE RECORDING TAX EXEMPTION AND (C) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A PAYMENT-IN-LIEU-OF-TAX AGREEMENT ("PILOT AGREEMENT"); AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, PILOT AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 55 of the Laws of 1972 of the State of New York (collectively, the "Act"), the Agency was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, **FIELDTEX PRODUCTS INC.**, a New York corporation, for itself or an entity formed or to be formed (collectively, the "Company"), submitted an application, attached hereto as **Exhibit A**, to the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency") requesting the Agency to assist with a certain project (the "Project") consisting of: (A) the acquisition of a leasehold interest in an approximately 8±-acre parcel of land located at 2921 Brighton-Henrietta Town Line Road in the Town of Henrietta, New York (the "Land") together with the existing approximately 129,000± square-foot manufacturing building thereon (the "Existing Improvements"); (B) the renovation of the Existing Improvements, including, but not limited to, build-out of bathrooms and a break

room, upgrading the building's electrical systems, upgrading the lighting and adding parking (collectively, 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 be used by the Company in its manufacturing and distribution business; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, pursuant to Section 859-a of the Act, on Tuesday, June 18, 2019, at 10:45 a.m., local time, in the Main Meeting Room at Henrietta Town Hall, 475 Calkins Road, Henrietta, New York 14467, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Public Hearing"), whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; a copy of the Notice of Public Hearing published in the *City Newspaper*, the affidavit of publication of such newspaper, and Minutes of the Public Hearing are attached hereto as **Exhibit B**; and

WHEREAS, it is contemplated that the Agency will (i) negotiate a project agreement (the "Project Agreement"), pursuant to which the Agency will appoint the Company as its agent for the purpose of acquiring, renovating and equipping the Project, (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement (the "PILOT Agreement") with the Company, (iii) take title to or a leasehold interest in the Land, the Improvements and personal property constituting the Facility (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated), and (iv) provide financial assistance (the "Financial Assistance") to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, renovation and equipping of the Facility, (b) if necessary, a mortgage recording tax exemption for financing relating to the Project and (c) a partial real property tax abatement structured through the PILOT Agreement; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project.

NOW, THEREFORE, BE IT RESOLVED by the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA as follows:

Section 1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's

application and other correspondence submitted by the Company to the Agency, the Agency hereby finds and determines that:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Facility constitutes a "project", as such term is defined in the Act; and

(c) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing, renovating and equipping the Project; and

(d) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Monroe County and otherwise furthering the purposes of the Agency as set forth in the Act; and

(e) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(f) The Project involves a Type II Action" as said term is defined in SEQRA, and therefore no further action is required to be taken under SEQRA.

Section 2. The Agency hereby determines that the acquisition of a leasehold interest in and the renovation, equipping, repair and maintenance of the Facility by the Agency and the lease or sublease of the Facility to the Company will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the County of Monroe and the people of the State of New York and improve their standard of living, thereby serving the public purposes of the Act and, therefore, the same is approved.

Section 3. The Agency hereby approves the cost/benefit report submitted by the Company listing the proposed cost/benefits of the Project.

Section 4. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, renovation, modernization and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency to acquire, renovate and equip the Facility, and such appointment includes the following activities as they relate to the construction,

erection, completion, use, repair and maintenance of the Improvements and the purchase, use, lease, placement, installation, repair, maintenance and replacement of the Equipment, whether or not any materials or supplies described below are incorporated into or become an integral part of the Improvements or the Equipment: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquiring, renovating, equipping, repairing and maintaining the Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description in connection with acquiring, renovating, equipping, repairing and maintaining the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the Improvements, Land or the Equipment, including all repairs, maintenance and replacement of all such property. Said agents are authorized to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agents for the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and with the same validity as the Agency could do if acting on its own behalf. As agent of the Agency, the Company is authorized to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses; provided, however, the Project Agreement shall expire on **June 30, 2020** (unless extended for good cause by the Executive Director, Chairman or Vice Chairman of the Agency) if the Lease Agreement, Leaseback Agreement and PILOT Agreement contemplated have not been executed and delivered. The Executive Director, Chairman or Vice Chairman of the Agency are authorized and directed to execute and deliver to said agent an appropriate letter on Agency letterhead describing the authority granted under this resolution.

Section 5. Based upon the representation and warranties made by the Company in its application for financial assistance, the Agency hereby authorizes and approves (i) the Company as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$782,946**, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed **\$62,636**; (ii) a mortgage tax exemption in connection with the financing of the Facility or portions thereof and including any refinancing thereof not to exceed **\$37,200**; and (iii) real property tax abatement pursuant to the Agency's uniform tax exemption policy for a ten (10) year term under its JobsPlus program.

Section 6. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company and/or the Tenant, their respective agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company and/or the Tenant, their respective agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company and/or the Tenant, their respective agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of

the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company and/or the Tenant, their respective agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving sales and use tax exemption benefits, the Company and/or the Tenant, their respective agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 7. The form and substance of the Lease Agreement, the Leaseback Agreement and the PILOT Agreement (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 8. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (A) the Lease Agreement whereby the Company leases the Project to the Agency, (B) the related Leaseback Agreement conveying the Project back to the Company, and (C) the PILOT Agreement; provided, that, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 9. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance equipment and other personal property and related transactional costs (hereinafter, with the Lease Agreement, Leaseback Agreement and PILOT Agreement are collectively referred to as, the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency (if any) to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Executive Director, Chairman or Vice Chairman of the Agency shall approve, the execution thereof by the Executive Director, Chairman or Vice Chairman of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 10. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of such Executive Director, Chairman or Vice Chairman of the Agency acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 11. This resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	<i><u>Yea</u></i>	<i><u>Nay</u></i>	<i><u>Absent</u></i>	<i><u>Abstain</u></i>
Jay Popli	X			
Anthony Meleo	X			
Troy Milne	X			
Jared Lusk			X	
Lisa Bolzner	X			
Ann L. Burr	X			

The Resolutions were thereupon duly adopted.

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

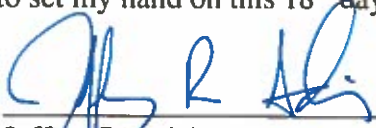
I, the undersigned Executive Director of the County of Monroe Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency"), including the resolutions contained therein, held on June 18, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Lease Agreement and the Leaseback Agreement contained in this transcript of proceedings are each in substantially the form presented to the Agency and approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with Sections 103 and 104 of the New York Public Officers Law (Open Meetings Law) that all members of the Agency had due notice of the meeting and that the meeting was in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand on this 18th day of June, 2019.



Jeffrey R. Adair, Executive Director

EXHIBIT A
APPLICATION
[See Attached]

EXHIBIT B

NOTICE DOCUMENTS

[See Attached]

Motion By: T. Milne
Seconded By: L. Bolzner

RESOLUTION
(Unither Manufacturing LLC)

A regular meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency"), was held at the Riverwood Tech Campus, 4545 East River Road, Henrietta, New York 14623, on June 18, 2019.

After the meeting had been duly called to order, the Chair announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a certain Project more particularly described below.

RESOLUTION OF THE COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON JUNE 18, 2019, WITH RESPECT TO THE UNITHER MANUFACTURING LLC (THE "COMPANY") PROJECT (THE "PROJECT"); (ii) MAKING A DETERMINATION WITH RESPECT TO THE PROJECT PURSUANT TO SEQRA (AS DEFINED BELOW); (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT AND (B) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A PAYMENT-IN-LIEU-OF-TAX AGREEMENT ("PILOT AGREEMENT"); AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, PILOT AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 55 of the Laws of 1972 of the State of New York (collectively, the "Act"), the Agency was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, UNITHER MANUFACTURING LLC, a New York limited liability company, for itself or an entity formed or to be formed (collectively, the "Company"), submitted an application, attached hereto as **Exhibit A**, to the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency") requesting the Agency to assist with a certain project (the "Project") consisting of: (A) the acquisition of a leasehold interest in a portion of land located at 755 Jefferson Road in the Town of Henrietta, New York [Tax Account No.: 162.09-1-2.001] (the "Land") together with the existing approximately 420,320 square-foot manufacturing building thereon (the "Existing Improvements"); (B) the

construction of an approximately 150,000 square-foot addition to the Existing Improvements to house a new packaging line and warehouse to accommodate finished product storage (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 be used by the Company in its business as a manufacturer of single-dosage drug delivery systems; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, pursuant to Section 859-a of the Act, on Tuesday, June 18, 2019, at 11:00 a.m., local time, in the Main Meeting Room at Henrietta Town Hall, 475 Calkins Road, Henrietta, New York 14467, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Public Hearing"), whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; a copy of the Notice of Public Hearing published in the *City Newspaper*, the affidavit of publication of such newspaper, and Minutes of the Public Hearing are attached hereto as Exhibit C; and

WHEREAS, it is contemplated that the Agency will (i) negotiate a project agreement (the "Project Agreement"), pursuant to which the Agency will appoint the Company as its agent for the purpose of acquiring, constructing and equipping the Project, (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement (the "PILOT Agreement") with the Company, (iii) take title to or a leasehold interest in the Land, the Improvements and personal property constituting the Facility (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated), and (iv) provide financial assistance (the "Financial Assistance") to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Facility and (b) a partial real property tax abatement structured through the PILOT Agreement; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the Town of Henrietta Planning Board (the "Planning Board"), acting as "lead agency" (as such term is defined under SEQRA), undertook an "uncoordinated review" (as such term is defined under SEQRA) of the Project, determined that the Project was an "Unlisted Action" (as such term is defined under SEQRA) and on March 26, 2019 issued a "negative declaration" (as such term is defined under SEQRA) with respect to the Project (the "Negative Declaration").

NOW, THEREFORE, BE IT RESOLVED by the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA as follows:

Section 1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's application and other correspondence submitted by the Company to the Agency, the Agency hereby finds and determines that:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Facility constitutes a "project", as such term is defined in the Act; and

(c) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(d) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Monroe County and otherwise furthering the purposes of the Agency as set forth in the Act; and

(e) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(f) The Project involves an Unlisted Action; the review is uncoordinated. The Planning Board, acting as lead agency, issued the Negative Declaration. The Agency, acting as an "involved agency" (as such term is defined under SEQRA), having undertaken a thorough and comprehensive review of the materials presented by the Company, including but not limited to, the Application and related documents delivered by the Company to the Agency, the Short Environmental Assessment Form and the Planning Board's Negative Declaration, as well as other representations made by the Company to the Agency in connection with the Project, hereby determines that the Project does not pose a potential significant adverse impact on the environment and thus adopts the Planning Board's Negative Declaration. The Agency further determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance contemplated by the Agency with respect to the Project have been satisfied. A copy of the Short Environmental Assessment Form and Negative Declaration are attached hereto as Exhibit B.

Section 2. The Agency hereby determines that the acquisition of a leasehold interest in and the construction, equipping, repair and maintenance of the Facility by the Agency and the lease or sublease of the Facility to the Company will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the County of Monroe and the people of the State of New York and improve their standard of living, thereby serving the public purposes of the Act and, therefore, the same is approved.

Section 3. The Agency hereby approves the cost/benefit report submitted by the Company listing the proposed cost/benefits of the Project.

Section 4. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency to acquire, construct and equip the Facility, and such appointment includes the following activities as they relate to the construction, erection, completion, use, repair and maintenance of the Improvements and the purchase, use, lease, placement, installation, repair, maintenance and replacement of the Equipment, whether or not any materials or supplies described below are incorporated into or become an integral part of the Improvements or the Equipment: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquiring, constructing, equipping, repairing and maintaining the Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description in connection with acquiring, constructing, equipping, repairing and maintaining the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the Improvements, Land or the Equipment, including all repairs, maintenance and replacement of all such property. Said agents are authorized to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agents for the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and with the same validity as the Agency could do if acting on its own behalf. As agent of the Agency, the Company is authorized to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses; provided, however, the Project Agreement shall expire on **December 31, 2020** (unless extended for good cause by the Executive Director, Chairman or Vice Chairman of the Agency) if the Lease Agreement, Leaseback Agreement and PILOT Agreement contemplated have not been executed and delivered. The Executive Director, Chairman or Vice Chairman of the Agency are authorized and directed to execute and deliver to said agent an appropriate letter on Agency letterhead describing the authority granted under this resolution.

Section 5. Based upon the representation and warranties made by the Company in its application for financial assistance, the Agency hereby authorizes and approves (i) the Company as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$2,046,051**, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed **\$163,684**; and (ii) a real property tax

abatement pursuant to the Agency's uniform tax exemption policy for a ten (10) year term under its Enhanced JobsPlus program.

Section 6. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 7. The form and substance of the Lease Agreement, the Leaseback Agreement and the PILOT Agreement (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 8. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (A) the Lease Agreement whereby the Company leases the Project to the Agency, (B) the related Leaseback Agreement conveying the Project back to the Company, and (C) the PILOT Agreement; provided, that, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 9. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance equipment and other personal property and related transactional costs (hereinafter, with the Lease Agreement, Leaseback Agreement and PILOT Agreement are collectively referred to as, the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency (if any) to the Agency Documents and to attest the same, all with such changes,

variations, omissions and insertions as the Executive Director, Chairman or Vice Chairman of the Agency shall approve, the execution thereof by the Executive Director, Chairman or Vice Chairman of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 10. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of such Executive Director, Chairman or Vice Chairman of the Agency acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 11. This resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Jay Popli	X			
Anthony Meleo	X			
Troy Milne	X			
Jared Lusk			X	
Lisa Bolzner	X			
Ann L. Burr	X			

The Resolutions were thereupon duly adopted.

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

I, the undersigned Executive Director of the County of Monroe Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency"), including the resolutions contained therein, held on June 18, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Lease Agreement and the Leaseback Agreement contained in this transcript of proceedings are each in substantially the form presented to the Agency and approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with Sections 103 and 104 of the New York Public Officers Law (Open Meetings Law) that all members of the Agency had due notice of the meeting and that the meeting was in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand on this 18th day of June, 2019.



Jeffrey R. Adair, Executive Director

EXHIBIT A
APPLICATION
[See Attached]

EXHIBIT B

SEQR

[See Attached]

EXHIBIT C

PUBLIC NOTICE DOCUMENTS

[See Attached]

Motion By: A. Meleo
Seconded By: J. Popli

RESOLUTION

(Claims Recovery Financial Services, LLC Project)

A regular meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency"), was held at the Riverwood Tech Campus, 4545 East River Road, Henrietta, New York 14623, on June 18, 2019.

After the meeting had been duly called to order, the Chair announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a certain Project more particularly described below.

RESOLUTION OF THE COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA TAKING OFFICIAL ACTION TO (i) APPOINT CLAIMS RECOVERY FINANCIAL SERVICES, LLC AS ITS AGENT TO UNDERTAKE A CERTAIN PROJECT AS MORE FULLY DESCRIBED BELOW; (ii) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION AND INSTALLATION OF EQUIPMENT IN, ON OR AROUND THE FACILITY, AND (iii) EXECUTE A PROJECT AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 55 of the Laws of 1972 of the State of New York (collectively, the "Act"), the Agency was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, CLAIMS RECOVERY FINANCIAL SERVICES, LLC, a Delaware limited liability company, for itself or an entity formed or to be formed (the "Company"), submitted an application, attached hereto as Exhibit A, to the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency") requesting the Agency to assist with a certain project (the "Project") consisting of the acquisition and installation of various machinery, equipment and personal property including, but not limited to, office furniture, wiring/cabling, IT equipment, computers, laptops and cubicles (collectively, the "Equipment"), into an approximately 2,500 square-foot portion of the building located at 1 East Avenue in the City of Rochester, New York (the "Improvements" and, together with the Equipment, the "Facility"), for use by the Company in its business as a default claims outsource provider; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Project and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, it is contemplated that the Agency will (i) negotiate a project agreement (the "Project Agreement"), pursuant to which the Agency will appoint the Company as its agent for

the purpose of acquiring and installing the Equipment and (ii) provide financial assistance (the "Financial Assistance") to the Company in the form of a sales and use tax exemption for purchases and rentals related to the acquisition and installation of the Equipment; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project.

NOW, THEREFORE, BE IT RESOLVED by the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA as follows:

Section 1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's application and other correspondence submitted by the Company to the Agency, the Agency hereby finds and determines that:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Project constitutes a "project", as such term is defined in the Act; and

(c) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring and installing the Equipment; and

(d) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Monroe County and otherwise furthering the purposes of the Agency as set forth in the Act; and

(e) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

(f) Pursuant to SEQR, the Project constitutes a "Type II Action" as said term is defined in SEQR, and therefore no further action is required to be taken under SEQR.

Section 2. The Agency hereby determines that the Project will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the

County of Monroe and the people of the State of New York and improve their standard of living, thereby serving the public purposes of the Act and, therefore, the same is approved.

Section 3. The Agency hereby approves the cost/benefit report submitted by the Company listing the proposed cost/benefits of the Project.

Section 4. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the Project and hereby appoints the Company as the true and lawful agent of the Agency to acquire and install the Equipment, and such appointment includes the following activities as they relate the placement of the Equipment, whether or not any materials or supplies described below are incorporated into or become an integral part of the Equipment. Said agent is authorized to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for acquisition of the Equipment, all with the same powers and with the same validity as the Agency could do if acting on its own behalf. As agent of the Agency, the Company is authorized to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses. As agent of the Agency, the Company is authorized to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses; provided, however, the Project Agreement shall expire on **June 30, 2020** (unless extended for good cause by the Executive Director, Chairman or Vice Chairman of the Agency). The Executive Director, Chairman or Vice Chairman of the Agency are each authorized and directed to execute and deliver to said agent an appropriate letter on Agency letterhead describing the authority granted under this resolution.

Section 5. Based upon the representation and warranties made by the Company in its application for financial assistance, the Agency hereby authorizes and approves the Company as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$190,000**, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed **\$15,200**. The Agency agrees to consider any requests by the Company for increase to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 6. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption

benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 7. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to negotiate the Project Agreement, pursuant to which the Agency will appoint the Company as its agent for the purpose of acquiring and installing the Equipment.

Section 8. The Executive Director, Chairman or Vice Chairman of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of such Executive Director, Chairman or Vice Chairman of the Agency acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 9. This resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Jay Popli	X			
Anthony Meleo	X			
Troy Milne	X			
Jared Lusk			X	
Lisa Bolzner	X			
Ann L. Burr	X			

The Resolutions were thereupon duly adopted.

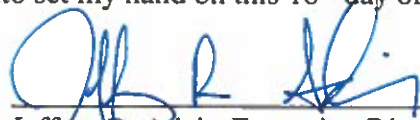
STATE OF NEW YORK)
COUNTY OF MONROE) ss.:

I, the undersigned Executive Director of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency"), including the resolutions contained therein, held on June 18, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with Sections 103 and 104 of the New York Public Officers Law (Open Meetings Law) that all members of the Agency had due notice of the meeting and that the meeting was in all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand on this 18th day of June, 2019.



Jeffrey R. Adair, Executive Director

EXHIBIT A
APPLICATION
[See Attached]

Motion By: J. Popli
Second By: A. Meleo

RESOLUTION
(THE MARKETPLACE CONDEMNATION - SEQRA)

A regular meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA was convened on June 18, 2019.

The following resolution was duly offered and seconded, to wit:

**RESOLUTION OF THE COUNTY OF MONROE INDUSTRIAL
DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY
COMIDA MAKING A DETERMINATION PURSUANT TO THE NEW YORK
STATE ENVIRONMENTAL QUALITY REVIEW ACT WITH RESPECT TO
THE ACTION (AS DEFINED BELOW)**

WHEREAS, by Title 1 of Article 18-A of the New York General Municipal Law, as amended, and Chapter 55 of the laws of 1972 of the State of New York, as amended (hereinafter referred to as the "Act"), the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA D/B/A IMAGINE MONROE POWERED BY COMIDA** (hereinafter referred to as the "Agency") was created with the authority and power through eminent domain or otherwise to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, the purposes and powers of the Agency are set forth in Section 858 of the New York General Municipal Law, as follows:

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, automobile racing facilities and continuing care retirement communities, provided, however, that, of agencies governed by this article, only agencies created for the benefit of a county and the agency created for the benefit of the city of New York shall be authorized to provide financial assistance in any respect to a continuing care retirement community, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living

; and

WHEREAS, The Marketplace, a New York limited partnership, and/or its affiliates, including, but not limited to, BTMPM, LLC and MMPO, LLC (collectively, the "Company"),

are existing applicants of the Agency with respect to the existing shopping center commonly referred to as The Marketplace Mall and The Outlets at Marketplace Mall located in the Town of Henrietta, Monroe County, New York (the "Town") and comprising of approximately 125±-acres and located at 3400 West Henrietta Road (identifiable by Tax ID#: 161.12-1-1.11), 10 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/C), 15 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/D), 20 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/B), 25 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/A), 30 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/G), 1100 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/F) and 1200 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/E), and upon which is located, among other things, the Main Mall building, the Sears department store, the JC Penney department store, the former Bon-Ton department store, the Former Macy's Parcel (as defined below), the Dick's Sporting Goods store and the Field & Stream store (collectively, the "Mall Facility"); and

WHEREAS, the Proposed Site, which the Project (as defined below) relates to, consists approximately of 26.38 acres of real property located in the Town consisting approximately of: (1) the situs at the Mall Facility of the former, and now vacant (since March 2017), approximately 149,009 square foot Macy's Department Store and existing Macy's improvements, adjoining and/or nearby parking fields and related improvements located at 20 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/B) and containing in the aggregate approximately 9.53 acres and leased to the Company (collectively, the "Former Macy's Parcel"), (2) such portions of the Mall Facility adjoining and/or near the Former Macy's Parcel containing in the aggregate approximately 14.17 acres and leased to the Company (collectively, the "Addition to Macy's Parcel"), (3) such portions of the Mall Facility constituting a portion of the parking fields and related improvements adjoining and/or near the situs at the Mall Facility of the former, and now partially vacant, Bon-Ton Department Store located at 15 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/D) and containing in the aggregate approximately 544 parking spaces and leased to the Company (collectively, the "Remote Parking Area") and (4) such portions of the Mall Facility constituting a triangular shaped parking field and related improvements adjoining and/or near the eastern portion of the existing JC Penney Department Store located at 25 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/A) and containing in the aggregate approximately 2.68 acres and leased to J.C. Penney Properties, Inc. or any of its successors or assigns (collectively, the "JC Penney Parking Parcel", and collectively with the Former Macy's Parcel, the Addition to Macy's Parcel and the Remote Parking Area, the "Proposed Site"); and

WHEREAS, on March 19, 2019, the Agency duly adopted a resolution authorizing the commencement of all steps necessary for the "acquisition" by the Agency of all or portions of certain "real property" (as such quoted terms are defined in the New York Eminent Procedure Domain Law ("EDPL") and used herein) located at the Mall Facility consisting approximately of all or a portion of certain real property interests of the Designated Interest Holders (as defined below) including, without limitation, (1) the real property interests of any of the Designated Interest Holders, or any of their respective successors or assigns, with respect to the Former Macy's Parcel and/or the Addition to Macy's Parcel under any and all of their respective leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded, (2) the real property interests of J.C. Penney Properties, Inc., any of the

other Designated Interest Holders, or any of their respective successors or assigns, with respect to the JC Penney Parking Parcel under any and all of their respective leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded, (3) the real property interests of Dave & Buster's of New York, Inc., any of the other Designated Interest Holders, or any of their respective successors or assigns, with respect to the Remote Parking Area under any and all of their respective leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded, (4) the real property interests of the Designated Interest Holders, their respective successors or assigns, identified by the Company in Exhibit A (attached hereto and made part hereof) under any and all of their respective leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded (collectively, the "Primary Contractual Rights") and/or (5) any and all other rights, rights to approve, consent or otherwise restrict, control, interfere or impede in any way the undertaking, development and/or continued and exclusive use, subleasing, assignment, maintenance and/or operation of the Project (regardless if such use and/or operation of the Project may otherwise be exclusive to any and all such Designated Interest Holders, their respective successors or assigns, or restricted, prohibited, and/or disallowed under any and all their respective leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded), real property interests of the Designated Interest Holders, their respective successors or assigns, to use and/or operate the respective facilities of any and all such Designated Interest Holders, their respective successors or assigns, for any purpose(s) other than retail as may be currently in use at the time of acquisition, right to discontinue operations (a/k/a "go-dark" clause), right to assignment and/or sublease, right to park in or have access to the Proposed Site (including with respect to the respective invitees, licensees and/or employees of any and all such Designated Interest Holders, their respective successors or assigns), right to restrict the use of or development within the Mall Facility, options, protected area rights, excluded area rights, entrance/loading/unloading rights, critical access way rights, interests, privileges or easements of any and all such Designated Interest Holders, their respective successors or assigns, under any and all of their leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded (collectively, the "Proposed Interests"), all in connection with the Project (as defined below); and

WHEREAS, the Agency desires to exercise its power of eminent domain for the acquisition of the Proposed Interests all in connection with future potential project(s) (collectively, the "Project") consisting of the proposed acquisition of the Proposed Interests all as may be needed in order to promote, attract, facilitate, maintain and continue, and in connection with, the productive reuse and redevelopment by the Company (or their respective successors, assigns or designees) of the Proposed Site, which is currently vacant and/or underutilized, and including, but not limited to, any and all related parking and entrance/loading/unloading realignments, parking improvements, infrastructure, roadway or site improvements or modifications necessary therefor throughout the Mall Facility including, without limitation,

related parking garages, buildings of heights in excess of two (2) stories, designation of restricted parking on the Remote Parking Area and signage, contemporaneously or in stages pursuant to the EDPL, and thereby serve a public use, benefit and/or purpose by, among other things, advancing the overall general prosperity and economic and welfare of the residents of the County of Monroe, New York (the "County") thereby advancing the purpose of the Agency under the Act, and including as appropriate, serve any public purpose contemplated by the Town of Henrietta Comprehensive Land Use Plan (January 2003), the Town of Henrietta 2011 Strategic Update to the Comprehensive Plan (August 2011) and/or the Town of Henrietta Comprehensive Land Use Plan – 2019 Update (February 2019), each of which are incorporated into this record by reference (collectively, the "Plans"); and

WHEREAS, the Designated Interest Holders, collectively, consist of only those certain tenants and/or interest holders of the Mall Facility identified by the Company as Old Navy, LLC, Sears, Roebuck and Co., J.C. Penney Properties, Inc., Victoria's Secrets Stores, LLC, Bath & Body Works, LLC, Express Fashion Operations, LLC, Dick's Sporting Goods, Inc. (Field & Stream), Galyan's Trading Company, LLC (Dick's Sporting Goods) and Dave & Buster's of New York, Inc., and their respective successors or assigns (collectively, the "Designated Interest Holders"); and

WHEREAS, pursuant to and in accordance with the EPDL, on April 15, 2019, a duly noticed public hearing with respect to the Project was held at the Henrietta Town Hall located at 475 Calkins Road, Main Meeting Room, Rochester, New York (the "April Hearing"); and

WHEREAS, in accordance with the EDPL and pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617.1 et seq., as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the Agency has identified the Project as an Unlisted Action under SEQRA, and the Agency has caused to be prepared, including based on the input of its counsel, a Full Environmental Assessment Form ("EAF") for the Project, including preparation of a Part 1 of the Full EAF for the Proposed Site, Parts 2 and 3 of the Full EAF for the Project, as well as other information summarizing the Project and its potential impacts; and

WHEREAS, the Agency has considered the impact on the environment of the Project as set forth in more detail below by undertaking a thorough review of conditions and issues associated with the Project and any relevant comments from the April Hearing, and the Agency's review and analysis of the potential impacts of the Project includes review and examination of: (i) the completed Full EAF, including Parts 1, 2 and 3, and the EAF Mapper results for the Project and applicable database results; and (ii) other supporting information and material available concerning the Project, including the Plans and other documents and information concerning the Project on file with the Agency; and

WHEREAS, based on the information contained in the completed Full EAF, the other information summarized above and herein comprising the administrative record in this matter, and the determination of negative declaration made herein, the Agency determines that the Project will not result in any significant adverse impact to the environment as specified below in accordance with the following:

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA AS FOLLOWS:

Section 1. The Project is classified as an Unlisted Action under SEQRA as that term is defined by 6 NYCRR §617.2(ak), and each of the Whereas Clauses in this Resolution is incorporated by reference as specific findings of this Resolution and shall have the same effect as the other findings herein.

Section 2. The Agency has considered the Project pursuant to the parameters and criteria set forth in applicable law and regulations, including but not limited to those set forth in 6 NYCRR §§617.1 and 617.3.

Section 3. The Agency has considered the significance of the potential environmental impacts of the Project by: (i) carefully reviewing and examining the responses to the Full EAF, including the information in Part 1 of the Full EAF and the EAF Mapper results and various database results assessing impacts or potential impacts associated with the Proposed Site including Part 1 EAFs prepared for the Proposed Site, and completing the analyses for Parts 2 and 3 of the EAF for the Project, together with examining other available supporting information and documents concerning the Project, including the Plans and other documents referenced previously concerning the Project, to identify the relevant areas of environmental concern with respect to potential impacts to land, stormwater and groundwater, wetlands, historic, archaeological and other recognized and/or protected resources, threatened or endangered species, community character and cumulative impacts, if any, and other potential impacts as required by applicable regulation; (ii) considering the criteria set forth in 6 NYCRR § 617.7(c); and (iii) thoroughly analyzing the identified areas of relevant environmental concern.

Section 4. Based upon a thorough and comprehensive review by the Agency of the Full EAF, including Parts 1, 2 and 3 thereof, the EAF Mapper and pertinent documents from various databases assessing impacts and potential impacts from the Project, the Plans and any other documents concerning the Project, and comments made or submitted at the April Hearing in connection with the Project, the Agency hereby finds that the Project will result in no potential significant adverse environmental impacts requiring the preparation of an environmental impact statement for the proposed action. The Project concerns the acquisition by condemnation of the Proposed Interests as may be needed to facilitate the future productive reuse and redevelopment of the Proposed Site. Under no circumstances shall the Project authorize development or redevelopment of the Proposed Site other than as may be authorized under current law, including SEQRA, and applicable zoning and land use laws. The approval of Project will not result in any physical impacts, including construction, development or other activities, and constitutes a preliminary step in a series of planning activities and actions intended to facilitate the ultimate

redevelopment of the Proposed Site consistent with the Plans (or otherwise). The Agency, having conducted an uncoordinated review of the Project pursuant to SEQRA, thus issues a Negative Declaration for the action pursuant to 6 NYCRR 617.7.

Section 5. The Agency approves, adopts and incorporates by reference the responses to the Full EAF, including Parts 1, 2 and 3 thereof with its supporting written elaboration, and finds that the Project will not result in any significant adverse impact on the environment for the following reasons:

1. Impact on Land (Full EAF Form, Part 2, Section 1). The Project will not have a significant adverse environmental impact on land. The Project does not involve construction on, or physical alteration of, the land surface of the proposed site, such as grading, clearing, filling, excavation or construction activities. The proposed action is limited to the acquisition by condemnation of the Proposed Interests as may be needed to facilitate the future productive reuse and redevelopment of the Proposed Site. No other action is to be taken concerning the Proposed Site. Acquisition of the Proposed Interests will not result in any physical change to the Proposed Site.

2. Impact on Geological Features (Full EAF Part 2, Section 2). The Project will not have a significant adverse environmental impact on geological features. No geological features were identified at the Proposed Site.

3. Impacts to Surface Water (Full EAF Form, Part 2, Section 3). The Project will not have a significant adverse impact on surface water. Although Part 1 of the Full EAF identified that a portion of the Proposed Site contains wetlands or other waterbodies, the Project does not involve any change to the Proposed Site, but simply involves the Agency's potential acquisition by condemnation of the Proposed Interests. Thus, the proposed action does not involve activities that would otherwise disturb the land such as removing vegetation, increasing or decreasing the size of a waterbody, creating new water bodies, or grading, clearing, filling or excavating within or adjoining a waterbody. The proposed action also will not cause erosion, withdraw water, discharge wastes into the waterbody, or degrade water quality. At such time as future development is proposed, stormwater runoff will be addressed, including the Agency anticipating that the developer will obtain, as applicable, coverage under the SPDES General Permit and prepare a SWPPP pursuant to New York State Department of Environmental Conservation ("NYSDEC") regulations that will implement construction and post-construction practices necessary to address any potential stormwater runoff.

4. Impact on Groundwater (Full EAF Form, Part 2, Section 4). The Project will not have a significant adverse environmental impact on groundwater. Because the proposed action is limited to the Agency's potential acquisition by condemnation of the Proposed Interests, current water usage will remain unchanged. The Project will not create a new or additional demand for water and no potable water source will be added or impacted by the proposed action. To the extent future development is proposed, it is anticipated that any building improvements will connect with the existing public water supply that contains adequate capacity.

5. Impact on Flooding (Full EAF Form, Part 2, Section 5). The Project will not have a significant adverse environmental impact on flooding. While the EAF Mapper report general

with Part 1 of the Full EAF indicates that the Proposed Site is located in the 100-year and 500-year Floodplain, the proposed action is limited to the Agency's potential acquisition by condemnation of the Proposed Interests, and thus no disturbance or construction will take place in the 100-year or 500-year floodway at the Proposed Site.

6. Impact on Air (Full EAF Part 2, Section 6). The Project will not have a significant adverse environmental impact on air. There will be no change in air quality upon the Agency's acquisition by condemnation of the Proposed Interests.

7. Impact on Plants and Animals (Full EAF Part 2, Section 7). The Project will not have a significant adverse environmental impact on plants and animals. As detailed in the Full EAF, there will be no change of use with respect to the Proposed Site, and no development or other action will be authorized or taken pursuant to the Project beyond the Agency's proposed acquisition by condemnation of the Proposed Interests. The proposed acquisition will result in no impact to threatened or endangered species or their habitats. The Full EAF does not identify any species of plant or animal that is listed as endangered or threatened, rare, or a species of special concern. While the NYSDEC Nature Explorer report and US Fish & Wildlife iPac report identify certain species, because there is no physical change proposed as part of the Project, which consists of the acquisition of the Proposed Interests, there will be no significant adverse impact to such species.

8. Impact on Agricultural Resources (Full EAF Form, Part 2, Section 8). The Project will not have a significant adverse environmental impact on agricultural resources. The Proposed Site is not currently engaged in an agricultural use.

9. Impact on Aesthetic Resources (Full EAF Form, Part 2, Section 9). The Project will not have a significant adverse environmental impact on aesthetic resources. The Project consists of the acquisition of the Proposed Interests, which will not introduce different land uses or a different level or kind of activity in the area different from what currently exists. No scenic or aesthetic resources were identified in proximity to the Proposed Site, and according to Part 1 of the Full EAF, no such resource is located within five miles of the Proposed Site.

10. Impact on Historic and Archeological Resources (Full EAF Part 2, Section 10). The Project will not have a significant adverse environmental impact on historic and archeological resources. The EAF Mapper and other information available indicate that no such recognized historical or archeological resources are associated with the Proposed Site. Although Part 1 of the Full EAF indicated that the Proposed Site is located in or adjacent to an archeologically sensitive area, because the proposed action is limited to the Agency's acquisition of the Proposed Interests, there will be no disturbance of any archeological resource.

11. Impact on Open Space and Recreation (Full EAF Part 2, Section 11). The Project will not have a significant adverse environmental impact on open space and recreation. The acquisition of the Proposed Interests will not create a loss of recreational opportunities or a reduction in an open space resource as designated in any adopted municipal open space plan. Available information does not indicate that the Project will have any impact on open space and

recreation in the area, and in any event the uses associated with the Proposed Site will not change as a result of the Project.

12. Impact on Critical Environmental Areas (Full EAF Part 2, Section 12). The Project will not have a significant adverse environmental impact on critical environmental areas. The proposed action will not be located within or adjacent to a critical environmental area.

13. Impact on Transportation (Full EAF Part 2, Section 13). The Project will not have a significant adverse environmental impact on transportation. As discussed, the Project involves the acquisition of the Proposed Interests, and thus will not result in a significant adverse impact on traffic or transportation systems, including pedestrian and vehicular traffic, parking, or traffic congestion. The acquisition of the Proposed Interests will not significantly impact available on-site parking for patrons of the Mall Facility. In connection with the Project, sufficient parking in direct proximity to existing Designated Interest Holders will be available. If, and when, potential future reuse or redevelopment of the Proposed Site occurs, traffic concerns will be evaluated at that time. The Agency's acquisition of title to the Proposed Interests will have no immediate impact on traffic or transportation systems.

14. Impact on Energy (Full EAF Part 2, Section 14). The Project will not have a significant adverse environmental impact on energy. Because the Project is limited to the Agency's acquisition of the Proposed Interests as may be needed to facilitate the future productive reuse and redevelopment of the Proposed Site, the proposed action will not increase the use of any form of energy, or increase energy demand. The creation or extension of an energy transmission or supply system is not required.

15. Impact on Noise, Odor and Light (Full EAF Part 3, Section 15). The Project will not have a significant adverse environmental impact on noise, odor and light. No odors, noise or light impacts will be generated through the Agency's acquisition of the Proposed Interests. The proposed action will not result in routine odors, light shining onto adjoining properties, or lighting creating sky-glow brighter than existing area conditions.

16. Impact on Human Health (Full EAF Part 3, Section 16). The Project will not have a significant adverse environmental impact on human health. Part 1 of the Full EAF indicates that the Proposed Site is within 2,000 feet of four sites referenced in the NYSDEC Remediation database. Further investigation has determined that the Proposed Site is approximately 2,400 feet from Site Code V00126 and 828170, 1,700 feet from Site Code 828077, and 1,600 feet from Site Code 828079. Because the proposed action is limited to the acquisition of the Proposed Interests, the Project will not otherwise disturb any solid or hazardous waste related to those identified sites.

17. Consistency with Community Plan (Full EAF Part 2, Section 17). The Project is consistent with adopted land use plans. The Project consists of the acquisition of the Proposed Interests to facilitate the productive reuse and redevelopment of the Proposed Site. The acquisition of the Proposed Interests will result in positive effects within the County and surrounding community. The Project will carry out the purpose of the Agency by advancing the general prosperity and economic welfare of the residents of the County and facilitating the

product reuse of the Proposed Site for future economic development, thereby promoting economic revitalization, employment and increasing the economic base within the County. The eventual effects on the community will be to provide a broader tax base and increased employment opportunities, thus benefitting the residents of the County. The Proposed Site is located in the Town of Henrietta Commercial B-1 Zoning District, which allows for a wide range of commercial uses. Pursuant to Local Law No. 3 of 2019, the Town of Henrietta included the Mall Facility, including the Proposed Site, in the Mixed-Use Redevelopment Overlay District, the primary purpose of which is to, among other things, "[e]ncourage adaptive reuse and redevelopment of abandoned, vacant or underutilized business . . . properties Mixed-Use Overlay Districts are intended to promote the development, redevelopment, adaptive reuse, rehabilitation and general improvement and reinvestment of properties within specifically designated geographic areas and along transportation corridors in the Town of Henrietta." The Town of Henrietta Comprehensive Land Use Plan (January 2003) puts forward several community goals and objectives including "actively promot[ing] the use of available land and underutilized buildings in existing developed areas" (p. 3-4) and "encourag[ing] the adaptive reuse of unused or underutilized commercial and industrial sites to attract new or expanded industries or businesses" (p. 3-9). The Town of Henrietta 2011 Strategic Update to the Comprehensive Plan (August 2011) identifies certain interrelated initiatives and strategies including a strong preference expressed by the community for "examining options to redevelop older, worn out commercial sites as an alternative to new commercial developments in previously undisturbed locations" (p. 28). In a similar vein, the Town of Henrietta Comprehensive Land Use Plan – 2019 Update (February 2019) presented recommendations to further implement the Town's Comprehensive Land Use Plan by encouraging mixed use development and redevelopment together with the Town's proposed Mixed-Use Redevelopment Area and stated that "[c]onsistent with previous planning initiatives, the Town should position itself to attract and accommodate reinvestment, reuse and redevelopment of previously developed properties in lieu of greenfield development, where appropriate. Greyfield redevelopment, as it is often called, could shift some development interest away from undeveloped (greenfield) properties to previously developed areas, particularly underutilized commercial strip shopping centers and other former retail and larger non-retail properties. Greyfield properties typically consist of large building footprints and equally large underused parking areas with access along major thoroughfares such as those identified [in the Plans]. The redevelopment of these properties may become more possible due to anticipated changes in retail markets, such as the continued closing of major retail stores due to online shopping.....These underutilized and vacant properties can accommodate redevelopment, possibly on a large scale, because of existing public infrastructure (roadways, sewer, water, utilities) and the availability of other community services, such as public transit and emergency services." (p. 22-23). Thus, the Project is consistent with the Plans.

18. Consistency with Community Character (Full EAF Form, Part 2, Section 18). The Project is consistent with community character and will have a positive effect on the community. The Project involves the acquisition of the Proposed Interests to facilitate the productive reuse and redevelopment of the Proposed Site for future economic development projects, which future development shall be subject to zoning, land use and other approvals. The eventual effects on the community as such time as development is proposed will be to provide a broader tax base, increased jobs, and thus a better standard of living for County residents in accordance with the

statutory purpose of the Agency. In addition, any development of the Proposed Site shall be subject to a SEQRA review and, as such, any impact on community character will be evaluated at that time.

19. Cumulative Impacts and Subsequent Review. There will be no significant adverse environmental impacts associated with any potential cumulative impact. The Agency has considered cumulative impacts, including other simultaneous or subsequent actions which are included in any long range plans of which the Project under consideration is a part; likely to be undertaken as a result of the Project; or dependent on the Project. Any potential impacts of future applications and proposals associated with the Proposed Site will be reviewed under SEQRA and zoning, land use and other applicable law when a future development is proposed. There is no improper segmentation associated with the Project. The Project is limited to the acquisition of the Proposed Interests. The approval of the Project will not result in any physical impacts, including construction, development or other activities, and constitutes a step in a series of planning activities and actions intended to facilitate the ultimate redevelopment of the Proposed Site in accordance with the Plans (or otherwise). Although the Agency has been informed by the Company of a potential reuse and redevelopment of the Proposed Site, the Agency is not aware that any applications have been submitted to the Town or other relevant state and local agencies, and regardless of such potential reuse and redevelopment coming to fruition, the Agency is proposing to undertake the Project for the purpose of the ultimate redevelopment of the Proposed Site. Because no specific final development plans are proposed for the Proposed Site at this time, any assessment of potential impacts would be speculative. Future development on the Proposed Site will be subject to local land use and zoning approvals. When future development of the Proposed Site is proposed, a separate environmental review will be completed under SEQRA and such review will be no less protective of the environment.

Section 6: This Resolution has been prepared in accordance with Article 8 of the New York Environmental Conservation Board by the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA with offices located at 50 West Main Street, Suite 8100, Rochester, New York 14614.

Section 7: The Agency and/or the persons whom it may designate or has designated for such purpose are authorized to file the Negative Declaration in accordance with applicable provisions of the law and this Resolution shall constitute a Notice of Negative Declaration. The requirements of SEQRA have been satisfied.

Section 8. The members, officers, employees and agents of the Agency (including general, special, and/or transaction counsel to the Agency) are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all certificates, instruments and documents, to pay all fees, charges and expenses and to do all further acts and things as may be necessary or, in the opinion of the member, officer, employee or agent of the Agency, desirable and proper to effectuate the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of any documents executed for and on behalf of the Agency for purposes of effectuating any of the foregoing.

Section 9. This Resolution shall take effect immediately.

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The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Ann L. Burr	X			
Jay Popli	X			
Anthony Meleo	X			
Gary Collins				
Troy Milne	X			
Jared Lusk			X	
Lisa Bolzner	X			

The Resolutions were thereupon duly adopted.

CERTIFICATION

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

I, the undersigned Executive Director of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA, DO HEREBY CERTIFY:

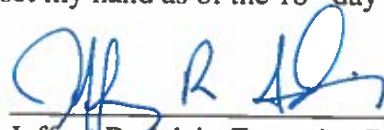
That I have compared the annexed extract of the minutes of the meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency"), including the resolutions contained therein, held on March 19, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject in matters therein referred to.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was in all respects duly held.

I FURTHER CERTIFY that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 18th day of June, 2019.



Jeffrey R. Adair, Executive Director

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed acquisition by condemnation of certain real property interests in the Marketplace Mall, Town of Henrietta, Monroe County		
Project Location (describe, and attach a general location map): See attached		
Brief Description of Proposed Action (include purpose or need): The proposed action consists of the acquisition of the "Proposed Interests" (as defined in the attached appendices) by the County of Monroe Industrial Development Agency as may be needed in order to facilitate the productive reuse and redevelopment by The Marketplace (or their respective successors, assigns or designees, of the project site (as described in Exhibit A and Exhibit B) which is currently vacant and/or underutilized, in connection with the purpose of furthering economic development in the County of Monroe, and advancing the general prosperity and economic welfare of its residents, including, as appropriate, complimenting any public purpose contemplated by the Town of Henrietta Comprehensive Land Use Plan (January 2003), the Town of Henrietta 2011 Strategic Update to the Comprehensive Plan (August 2011) and/or the Town of Henrietta Comprehensive Land Use Plan – 2019 Update (February 2019), each of which are incorporated by reference, thus carrying out the purpose of the Agency under the Act to advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living. There are no alternative locations in connection with the proposed action		
Name of Applicant/Sponsor: County of Monroe Industrial Development Agency		Telephone: E-Mail:
Address: 50 West Main Street, Suite 8100		
City/PO: Rochester	State: NY	Zip Code: 14534
Project Contact (if not same as sponsor; give name and title/role):		Telephone: E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): See attached		Telephone: E-Mail:
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, <input type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village <input type="checkbox"/> Yes <input type="checkbox"/> No Planning Board or Commission		
c. City, Town or <input type="checkbox"/> Yes <input type="checkbox"/> No Village Zoning Board of Appeals		
d. Other local agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County of Monroe Industrial Development Agency (acquisition pursuant to EDPL)	Pending
f. Regional agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. Planning and Zoning

C.1. Planning and zoning actions.	
Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<ul style="list-style-type: none"> If Yes, complete sections C.1 and G. If No, proceed to question C.2 and complete all remaining sections and questions in Part I 	
C.2. Adopted land use plans.	
a. Do any municipally-adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? General recommendations for property types similar to interests to be acquired here. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If Yes, identify the plan(s): NYS Heritage Areas West Erie Canal Corridor	
c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes, identify the plan(s):	

C.3. Zoning	
a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. If Yes, what is the zoning classification(s) including any applicable overlay district? <u>Commercial B-1 and Mixed-Use Redevelopment Overlay District</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b. Is the use permitted or allowed by a special or conditional use permit?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
c. Is a zoning change requested as part of the proposed action? If Yes, i. What is the proposed new zoning for the site? _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
C.4. Existing community services.	
a. In what school district is the project site located? <u>Rush-Henrietta Central School District</u>	
b. What police or other public protection forces serve the project site? <u>Monroe County Sheriff's Office</u>	
c. Which fire protection and emergency medical services serve the project site? <u>Henrietta Fire District</u>	
d. What parks serve the project site? <u>N/A</u>	

D. Project Details

D.1. Proposed and Potential Development	
a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? <u>Acquisition of real property interests by condemnation under the Eminent Domain Procedure Law</u>	
b. a. Total acreage of the site of the proposed action?	<u>26.38</u> acres
b. Total acreage to be physically disturbed?	<u>0</u> acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?	<u>26.38</u> acres
c. Is the proposed action an expansion of an existing project or use?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____	
d. Is the proposed action a subdivision, or does it include a subdivision?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) _____	
ii. Is a cluster/conservation layout proposed? <input type="checkbox"/> Yes <input type="checkbox"/> No	
iii. Number of lots proposed? _____	
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____	
e. Will the proposed action be constructed in multiple phases?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
i. If No, anticipated period of construction: _____ months	
ii. If Yes:	
• Total number of phases anticipated _____	
• Anticipated commencement date of phase I (including demolition) _____ month _____ year	
• Anticipated completion date of final phase _____ month _____ year	
• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____ _____ _____	

f. Does the project include new residential uses? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, show numbers of units proposed.				
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes,	
i. Total number of structures _____ ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes,	
i. Purpose of the impoundment: _____ ii. If a water impoundment, the principal source of the water: <input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input type="checkbox"/> Other specify: _____ iii. If other than water, identify the type of impounded/contained liquids and their source: _____ iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____	

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) If Yes:	
i. What is the purpose of the excavation or dredging? _____ ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site? • Volume (specify tons or cubic yards): _____ • Over what duration of time? _____ iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____ _____ _____	
iv. Will there be onsite dewatering or processing of excavated materials? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe, _____ _____ _____	
v. What is the total area to be dredged or excavated? _____ acres vi. What is the maximum area to be worked at any one time? _____ acres vii. What would be the maximum depth of excavation or dredging? _____ feet viii. Will the excavation require blasting? <input type="checkbox"/> Yes <input type="checkbox"/> No ix. Summarize site reclamation goals and plan: _____ _____ _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____ _____ _____	

ii Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii Will the proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☐ No
If Yes, describe: _____

iv Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☐ No
If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v Describe any proposed reclamation/mitigation following disturbance: _____

c Will the proposed action use, or create a new demand for water? ☐ Yes ☒ No
If Yes:

i Total anticipated water usage/demand per day: _____ gallons/day

ii Will the proposed action obtain water from an existing public water supply? ☐ Yes ☐ No
If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No
- Do existing lines serve the project site? ☐ Yes ☐ No

iii Will line extension within an existing district be necessary to supply the project? ☐ Yes ☐ No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☐ No
If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d Will the proposed action generate liquid wastes? ☐ Yes ☒ No
If Yes:

i Total anticipated liquid waste generation per day: _____ gallons/day

ii Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii Will the proposed action use any existing public wastewater treatment facilities? ☐ Yes ☐ No
If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No

<ul style="list-style-type: none"> • Do existing sewer lines serve the project site? _____ • Will a line extension within an existing district be necessary to serve the project? If Yes: <ul style="list-style-type: none"> • Describe extensions or capacity expansions proposed to serve this project: _____ 	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? If Yes: <ul style="list-style-type: none"> • Applicant/sponsor for new district: _____ • Date application submitted or anticipated: _____ • What is the receiving water for the wastewater discharge? _____ 	<input type="checkbox"/> Yes <input type="checkbox"/> No	
v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans): _____ _____		
vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____ _____ _____		
e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? If Yes: <ul style="list-style-type: none"> i. How much impervious surface will the project create in relation to total size of project parcel? _____ Square feet or _____ acres (impervious surface) _____ Square feet or _____ acres (parcel size) ii. Describe types of new point sources. _____ iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? _____ _____ • If to surface waters, identify receiving water bodies or wetlands: _____ • Will stormwater runoff flow to adjacent properties? _____ 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? If Yes, identify: <ul style="list-style-type: none"> i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles) _____ ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers) _____ iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation) _____ 	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? If Yes: <ul style="list-style-type: none"> i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) _____ ii. In addition to emissions as calculated in the application, the project will generate: <ul style="list-style-type: none"> • _____ Tons/year (short tons) of Carbon Dioxide (CO₂) • _____ Tons/year (short tons) of Nitrous Oxide (N₂O) • _____ Tons/year (short tons) of Perfluorocarbons (PFCs) • _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆) • _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs) • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs) 		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐ Yes ☒ No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐ Yes ☒ No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐ Yes ☒ No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐ Weekend
☐ Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐ Yes ☐ No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site? ☐ Yes ☐ No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐ Yes ☐ No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐ Yes ☐ No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐ Yes ☒ No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid local utility, or other): _____

iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐ Yes ☐ No

l. Hours of operation. Answer all items which apply.

<p>i. During Construction:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____ 	<p>ii. During Operations:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____
--	---

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☐ Yes ☒ No
 If yes:
 i. Provide details including sources, time of day and duration: _____

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☐ No
 Describe: _____

n. Will the proposed action have outdoor lighting? ☐ Yes ☒ No
 If yes:
 i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures: _____

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☐ No
 Describe: _____

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☒ No
 If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☒ No
 If Yes:
 i. Product(s) to be stored _____
 ii. Volume(s) _____ per unit time _____ (e.g., month, year)
 iii. Generally, describe the proposed storage facilities: _____

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☒ No
 If Yes:
 i. Describe proposed treatment(s): _____

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☒ No
 If Yes:
 i. Describe any solid waste(s) to be generated during construction or operation of the facility:
 • Construction: _____ tons per _____ (unit of time)
 • Operation: _____ tons per _____ (unit of time)
 ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:
 • Construction: _____
 • Operation: _____

iii. Proposed disposal methods/facilities for solid waste generated on-site:
 • Construction: _____
 • Operation: _____

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☒ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

F. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☒ Commercial ☐ Residential (suburban) ☐ Rural (non-farm)

☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____

ii. If mix of uses, generally describe _____

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acre +/-)
• Roads, buildings, and other paved or impervious surfaces	26.38	same	0
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____			

e. Is the project site presently used by members of the community for public recreation? ☐ Yes ☒ No
 i. If Yes, explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☐ Yes ☒ No
 If Yes,
 i. Identify Facilities: _____

e. Does the project site contain an existing dam? ☐ Yes ☒ No
 If Yes:
 i. Dimensions of the dam and impoundment:
 • Dam height: _____ feet
 • Dam length: _____ feet
 • Surface area: _____ acres
 • Volume impounded: _____ gallons OR acre-feet
 ii. Dam's existing hazard classification: _____
 iii. Provide date and summarize results of last inspection: _____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐ Yes ☒ No
 If Yes:
 i. Has the facility been formally closed? ☐ Yes ☐ No
 • If yes, cite sources/documentation: _____
 ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____

 iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐ Yes ☒ No
 If Yes:
 i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐ Yes ☒ No
 If Yes:
 i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐ Yes ☐ No
 ☐ Yes – Spills Incidents database Provide DEC ID number(s): _____
 ☐ Yes – Environmental Site Remediation database Provide DEC ID number(s): _____
 ☐ Neither database
 ii. If site has been subject of RCRA corrective activities, describe control measures: _____

 iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☒ Yes ☐ No
 If yes, provide DEC ID number(s): V00126, 828170, 828077, 828079
 iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____
 See attachments _____

<p>m. Identify the predominant wildlife species that occupy or use the project site: _____</p> <p>_____</p> <p>_____</p>	
<p>n. Does the project site contain a designated significant natural community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p style="margin-left: 20px;">ii. Source(s) of description or evaluation: _____</p> <p style="margin-left: 20px;">iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres 	
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing (endangered or threatened): _____</p> <p>_____</p>	
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing: _____</p> <p>_____</p>	
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p>	
<p>E.3. Designated Public Resources On or Near Project Site</p>	
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, provide county plus district name/number: _____</p>	
<p>b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="margin-left: 20px;">i. If Yes: acreage(s) on project site? _____</p> <p style="margin-left: 20px;">ii. Source(s) of soil rating(s): _____</p>	
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p style="margin-left: 20px;">ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p>	
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. CEA name: _____</p> <p style="margin-left: 20px;">ii. Basis for designation: _____</p> <p style="margin-left: 20px;">iii. Designating agency and date: _____</p>	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes: <ul style="list-style-type: none"> i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District ii. Name: _____ iii. Brief description of attributes on which listing is based: _____ 	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
g. Have additional archaeological or historic site(s) or resources been identified on the project site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes: <ul style="list-style-type: none"> i. Describe possible resource(s): _____ ii. Basis for identification: _____ 	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes: <ul style="list-style-type: none"> i. Identify resource: _____ ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____ iii. Distance between project and resource: _____ miles. 	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes: <ul style="list-style-type: none"> i. Identify the name of the river and its designation: _____ ii. Is the activity consistent with development restrictions contained in 6 NYCRR Part 666? <input type="checkbox"/> Yes <input type="checkbox"/> No 	

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

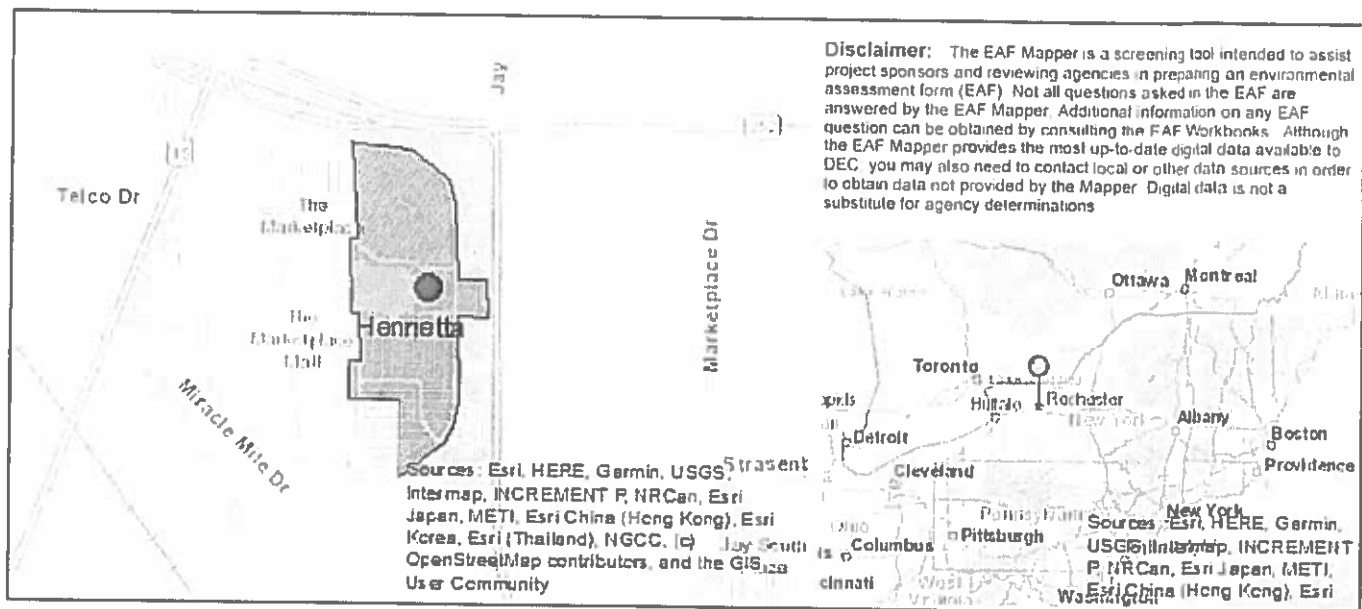
G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Jeffrey A. Adair Date 6/20/19

Signature [Signature] Title Executive Director

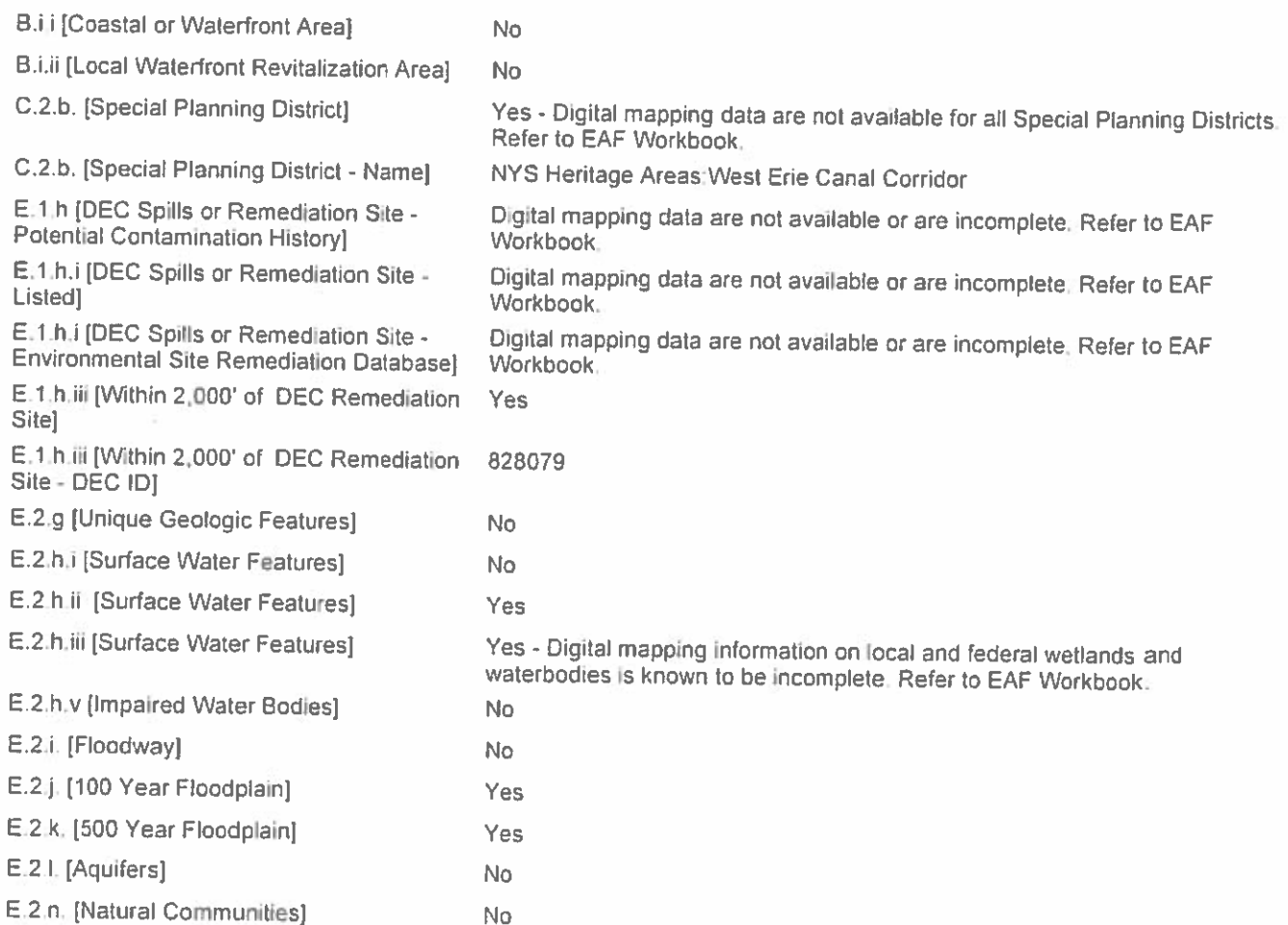
PRINT FORM



B.1.i [Coastal or Waterfront Area]	No
B.1.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas: West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	V00126, 828170, 828077
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses: Red Creek and tributaries - Unknown Toxicity - Recreation/Aquatic Life
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	Yes

E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Saturday, May 25, 2019 9:17 AM



E.2 o. [Endangered or Threatened Species]	No
E.2 p. [Rare Plants or Animals]	No
E.3 a. [Agricultural District]	No
E.3 c. [National Natural Landmark]	No
E.3 d. [Critical Environmental Area]	No
E.3 e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3 f. [Archeological Sites]	Yes
E.3 i. [Designated River Corridor]	No

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

As more fully detailed in the Negative Declaration Resolution and Notice (the "Negative Declaration") adopted herewith the County of Monroe Industrial Development Agency (COMIDA) for the proposed action consisting of the acquisition of the "Proposed Interests" (as defined in the Negative Declaration) and based upon a thorough and comprehensive review by the Agency of the Full Environmental Assessment Form ("EAF"), including Parts 1, 2 and 3 thereof, the EAF Mapper and pertinent documents from various databases assessing impacts and potential impacts from the proposed action, the Plans (as defined in the Negative Declaration) and any other documents concerning the proposed action, and comments made or submitted at the April Hearing (as defined in the Negative Declaration) in connection with the Project, and COMIDA consideration of the criteria set forth in 6 NYCRR § 617.7(c) of the SEQRA regulations, COMIDA hereby finds that the proposed action will result in no potential significant adverse environmental impacts requiring the preparation of an environmental impact statement for the proposed action.

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: ☐ Type 1 ☒ Unlisted

Identify portions of EAF completed for this Project: ☒ Part 1 ☒ Part 2 ☒ Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information Database information maintained by the New York State Department of Environmental Conservation, including the EAF Mapper, the Cultural Resource Information System maintained by the New York State Historic Preservation Office, iPac report, comments received and reviewed from the public hearing referenced in the Negative Declaration, and various comprehensive plans and other planning documents referenced in the Negative Declaration.

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the County of Monroe Industrial Development Agency _____ as lead agency that:

☒ A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

☐ B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

☐ C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: COMIDA Marketplace Condemnation

Name of Lead Agency: County of Monroe Industrial Development Agency

Name of Responsible Officer in Lead Agency: Jeffrey R. Adair

Title of Responsible Officer: Executive Director

Signature of Responsible Officer in Lead Agency: [Signature]

Date: 6/20/19

Signature of Preparer (if different from Responsible Officer)

Date:

For Further Information:

Contact Person:

Address:

Telephone Number:

E-mail:

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

Motion By: A. Meleo
Second By: L. Bolzner

RESOLUTION

(THE MARKETPLACE CONDEMNATION – DETERMINATION & FINDINGS)

A regular meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA was convened on June 18, 2019.

The following resolution was duly offered and seconded, to wit:

RESOLUTION AUTHORIZING THE ADOPTION AND PUBLICATION BY THE COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA OF THE DETERMINATION AND FINDINGS (AS DEFINED BELOW) UNDER SECTION 204 OF THE NEW YORK EMINENT DOMAIN PROCEDURE LAW CONCERNING THE PROPOSED CONDEMNATION OF CERTAIN REAL PROPERTY LOCATED AT THE MALL FACILITY (AS DEFINED BELOW) CONSISTING APPROXIMATELY OF THE PROPOSED INTERESTS (AS DEFINED IN THE DETERMINATION AND FINDINGS) IN CONNECTION WITH THE PROJECT (AS DEFINED IN THE DETERMINATION AND FINDINGS)

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 55 of the Laws of 1972 of the State of New York, as amended (hereinafter collectively called the "Act"), the **COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA** (the "Agency") was created with the authority and power through eminent domain or otherwise to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, The Marketplace, a New York limited partnership, and/or its affiliates, including, but not limited to, BTMPM, LLC and MMPO, LLC (collectively, the "Company"), are existing applicants of the Agency with respect to the existing shopping center commonly referred to as The Marketplace Mall and The Outlets at Marketplace Mall located in the Town of Henrietta, Monroe County, New York (the "Town") and comprising of approximately 125±-acres and located at 3400 West Henrietta Road (identifiable by Tax ID#: 161.12-1-1.11), 10 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/C), 15 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/D), 20 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/B), 25 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/A), 30 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/G), 1100 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/F) and 1200 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/E), and upon which is located, among other things, the Main Mall building, the Sears department store, the JC Penney department store, the former Bon-Ton department store, the Former Macy's Parcel (as defined in the hereinafter defined Determination and Findings), the Dick's Sporting Goods store and the Field & Stream store (collectively, the "Mall Facility"); and

WHEREAS, the Agency desires to exercise its power of eminent domain for the

"acquisition" of all or portions of certain "real property" (as such quoted terms are defined in the New York Eminent Procedure Domain Law (the "EDPL")) located at the Mall Facility consisting approximately of the Proposed Interests (as defined in the hereinafter defined Determination and Findings), all in connection with the Project (as defined in the hereinafter defined Determination and Findings); and

WHEREAS, in accordance with the EDPL, the Agency conducted a duly noticed public hearing on April 15, 2019 at 10:30 a.m. to inform the public and to review the public use, benefit or purpose to be served by the Project, the proposed location of the Project and its general effect on the environment and the residents of the locality where the Project is proposed to be constructed and at the public hearing, the public was provided an opportunity to provide any comments and written comments were accepted by the Agency through April 22, 2019 (such comment period collectively with the aforementioned hearing record hereinafter referred to as the "Hearing"); and

WHEREAS, by resolution adopted prior hereto on June 18, 2019, the Agency, in accordance with the EDPL and pursuant to the New York State Environmental Quality Review Act, Article 8 of the New York Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617.1 et seq., as amended (collectively referred to as "SEQRA"), issued a Negative Declaration (as that term is defined under SEQRA) determining that the Project will not result in any significant adverse impact to the environment, thereby satisfying the applicable requirements set forth in SEQRA, as necessary; and

WHEREAS, the Agency, having considered the foregoing, now desires to adopt and publish the Determination and Findings in accordance with the EDPL and any applicable laws, rules or regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA AS FOLLOWS:

Section 1. The Board, pursuant to Section 204 of the EDPL, hereby (i) adopts the determination and findings in the form presented at this meeting with such changes as approved by counsel to the Agency (the "Determination and Findings") as more fully set forth in Exhibit A annexed hereto and made a part hereof and (ii) authorizes its members, officers, employees and agents of the Agency (including counsel to the Agency) to (A) publish a brief synopsis of the Determination and Findings (B) mail notice of such brief synopsis to owner(s) of the Proposed Interests (and/or their attorney of record) and (C) take all steps appropriate to comply with applicable provisions of the EDPL and all other applicable laws, rules or regulations to implement this Resolution.

Section 2. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Jay Popli	X			
Anthony Meleo	X			
Troy Milne	X			
Jared Lusk			X	
Lisa Bolzner	X			
Ann Burr	X			

The Resolutions were thereupon duly adopted.

CERTIFICATION

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

I, the undersigned Executive Director of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (the "Agency"), including the resolutions contained therein, held on March 19, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject in matters therein referred to.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was in all respects duly held.

I FURTHER CERTIFY that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 18th day of June, 2019.



Jeffrey R. Adair, Executive Director

EXHIBIT A

Form of Determination and Findings

Attached Hereto

DETERMINATION AND FINDINGS OF THE COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY D/B/A IMAGINE MONROE POWERED BY COMIDA ADOPTED PURSUANT TO SECTION 204 OF THE NEW YORK EMINENT DOMAIN PROCEDURE LAW FOR THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED AT THE MALL FACILITY (AS DEFINED BELOW) IN THE TOWN OF HENRIETTA, MONROE COUNTY, NEW YORK CONSISTING APPROXIMATELY OF THE PROPOSED INTERESTS (AS DEFINED BELOW).

Overview and Background

By Title I of Article 18-A of the New York General Municipal Law, as amended, and Chapter 55 of the laws of 1972 of the State of New York, as amended (hereinafter referred to as the "Act"), the County of Monroe Industrial Development Agency d/b/a Imagine Monroe Powered By COMIDA (hereinafter referred to as the "Agency") was created with the authority and power through eminent domain or otherwise to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act. In particular, the purposes and powers of the Agency are set forth in Section 858 of the New York General Municipal Law, as follows:

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, automobile racing facilities and continuing care retirement communities, provided, however, that, of agencies governed by this article, only agencies created for the benefit of a county and the agency created for the benefit of the city of New York shall be authorized to provide financial assistance in any respect to a continuing care retirement community, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living

The Marketplace, a New York limited partnership, and/or its affiliates, including, but not limited to, BTMPM, LLC and MMPO, LLC (collectively, the "Company"), are existing applicants of the Agency with respect to the existing shopping center commonly referred to as The Marketplace Mall and The Outlets at Marketplace Mall located in the Town of Henrietta, Monroe County, New York (the "Town") and comprising of approximately 125±-acres and located at 3400 West Henrietta Road (identifiable by Tax ID#: 161.12-1-1.11), 10 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/C), 15 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/D), 20 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/B), 25 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/A), 30 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/G), 1100 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/F) and 1200 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/E), and upon which is located, among other things, the Main Mall building, the Sears department store, the JC Penney department store, the former Bon-Ton department store, the Former Macy's Parcel (as defined below), the Dick's Sporting Goods store and the Field & Stream store (collectively, the "Mall Facility").

The Proposed Site, which the Project (as defined below) relates to and which is located within the boundaries of the Mall Facility, consists approximately of: (1) the situs at the Mall Facility of the former, and now vacant (since March 2017), approximately 149,009 square foot Macy's Department Store and existing Macy's improvements, adjoining and/or nearby parking fields and related improvements located at 20 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/B) and containing in the aggregate approximately 9.53 acres and leased to the Company (collectively, the "Former Macy's Parcel"), (2) such portions of the Mall Facility adjoining and/or near the Former Macy's Parcel containing in the aggregate approximately 14.17

acres and leased to the Company (collectively, the "Addition to Macy's Parcel"), (3) such portions of the Mall Facility constituting a portion of the parking fields and related improvements adjoining and/or near the situs at the Mall Facility of the former, and now partially vacant, Bon-Ton Department Store located at 15 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/D) and containing in the aggregate approximately 544 parking spaces and leased to the Company (collectively, the "Remote Parking Area") and (4) such portions of the Mall Facility constituting a triangular shaped parking field and related improvements adjoining and/or near the eastern portion of the existing JC Penney Department Store located at 25 Miracle Mile Drive (identifiable by Tax ID#: 161.12-1-1.1/A) and containing in the aggregate approximately 2.68 acres and leased to J.C. Penney Properties, Inc. or any of its successors or assigns, under any and all of leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded (collectively, the "JC Penney Parking Parcel", and collectively with the Former Macy's Parcel, the Addition to Macy's Parcel and the Remote Parking Area, the "Proposed Site").

The Agency desires to exercise its power of eminent domain for the "acquisition" of all or portions of certain "real property" (as such quoted terms are defined in the New York Eminent Procedure Domain Law ("EDPL") and used herein) located at the Mall Facility consisting approximately of all or a portion of certain real property interests of the Designated Interest Holders (as defined below) including, without limitation, (1) the real property interests of any of the Designated Interest Holders, or any of their respective successors or assigns, with respect to the Former Macy's Parcel and/or the Addition to Macy's Parcel under any and all of their respective leases, instruments or agreements, including, without limitation, any and all operating

covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded, (2) the real property interests of J.C. Penney Properties, Inc., any of the other Designated Interest Holders, or any of their respective successors or assigns, with respect to the JC Penney Parking Parcel under any and all of their respective leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded, (3) the real property interests of Dave & Buster's of New York, Inc., any of the other Designated Interest Holders, or any of their respective successors or assigns, with respect to the Remote Parking Area under any and all of their respective leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded, (4) the real property interests of the Designated Interest Holders, their respective successors or assigns, identified by the Company in Exhibit A (attached hereto and made part hereof) under any and all of their respective leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded (collectively, the "Primary Contractual Rights") and/or (5) any and all other rights, rights to approve, consent or otherwise restrict, control, interfere or impede in any way the undertaking, development and/or continued and exclusive use, subleasing, assignment, maintenance and/or operation of the Project (regardless if such use and/or operation of the Project may otherwise be exclusive to any and all such Designated Interest Holders, their respective successors or assigns, or restricted, prohibited, and/or disallowed under any and all their respective leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal

easement agreements (or similar agreements) whether or not recorded), real property interests of the Designated Interest Holders, their respective successors or assigns, to use and/or operate the respective facilities of any and all such Designated Interest Holders, their respective successors or assigns, for any purpose(s) other than retail as may be currently in use at the time of acquisition, right to discontinue operations (a/k/a "go-dark" clause), right to assignment and/or sublease, right to park in or have access to the Proposed Site (including with respect to the respective invitees, licensees and/or employees of any and all such Designated Interest Holders, their respective successors or assigns), right to restrict the use of or development within the Mall Facility, options, protected area rights, excluded area rights, entrance/loading/unloading rights, critical access way rights, interests, privileges or easements of any and all such Designated Interest Holders, their respective successors or assigns, under any and all of their leases, instruments or agreements, including, without limitation, any and all operating covenant agreements (or similar agreements), reciprocal easement agreements (or similar agreements) whether or not recorded (collectively, the "Proposed Interests"), all in connection with future potential project(s) (collectively, the "Project") consisting of the proposed acquisition of the Proposed Interests all as may be needed in order to promote, attract, facilitate, maintain and continue, and in connection with, the productive reuse and redevelopment by the Company (or their respective successors, assigns or designees) of the Proposed Site, which is currently vacant and/or underutilized, and including, but not limited to, any and all related parking and entrance/loading/unloading realignments, parking improvements, infrastructure, roadway or site improvements or modifications necessary therefor throughout the Mall Facility including, without limitation, related parking garages, buildings of heights in excess of two (2) stories, designation of restricted parking on the Remote Parking Area and signage, contemporaneously

or in stages pursuant to the EDPL, in connection with serving the public use, benefit or purpose described herein.

The Agency is proposing to acquire the Proposed Interests for the purpose of furthering economic development in the County of Monroe, New York (the "County"), including, as appropriate, complementing any public purpose contemplated by the Town of Henrietta Comprehensive Land Use Plan (January 2003), the Town of Henrietta 2011 Strategic Update to the Comprehensive Plan (August 2011) and/or the Town of Henrietta Comprehensive Land Use Plan – 2019 Update (February 2019), each of which are incorporated into this record by reference (collectively, the "Plans") as described further herein, thus carrying out the purpose of the Agency under the Act to "advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living." The proposed acquisition of the Proposed Interests is within the Agency's statutory authority and will fulfill its statutory purposes.

The Town of Henrietta Comprehensive Land Use Plan (January 2003) puts forward several community goals and objectives including "actively promot[ing] the use of available land and underutilized buildings in existing developed areas" (p. 3-4) and "encourag[ing] the adaptive reuse of unused or underutilized commercial and industrial sites to attract new or expanded industries or businesses" (p. 3-9). The Town of Henrietta 2011 Strategic Update to the Comprehensive Plan (August 2011) identifies certain interrelated initiatives and strategies including a strong preference expressed by the community for "examining options to redevelop older, worn out commercial sites as an alternative to new commercial developments in previously undisturbed locations" (p. 28). In a similar vein, the Town of Henrietta Comprehensive Land Use Plan – 2019 Update (February 2019) presented recommendations to

further implement the Town's Comprehensive Land Use Plan by encouraging mixed use development and redevelopment together with the Town's proposed Mixed-Use Redevelopment Area and stated that "[c]onsistent with previous planning initiatives, the Town should position itself to attract and accommodate reinvestment, reuse and redevelopment of previously developed properties in lieu of greenfield development, where appropriate. Greyfield redevelopment, as it is often called, could shift some development interest away from undeveloped (greenfield) properties to previously developed areas, particularly underutilized commercial strip shopping centers and other former retail and larger non-retail properties. Greyfield properties typically consist of large building footprints and equally large underused parking areas with access along major thoroughfares such as those identified [in the Plans]. The redevelopment of these properties may become more possible due to anticipated changes in retail markets, such as the continued closing of major retail stores due to online shopping.....These underutilized and vacant properties can accommodate redevelopment, possibly on a large scale, because of existing public infrastructure (roadways, sewer, water, utilities) and the availability of other community services, such as public transit and emergency services." (p. 22-23). Thus, the Project is consistent with the Plans.

The Designated Interest Holders, collectively, consist of only those certain tenants and/or interest holders of the Mall Facility identified by the Company as Old Navy, LLC, Sears, Roebuck and Co., J.C. Penney Properties, Inc., Victoria's Secrets Stores, LLC, Bath & Body Works, LLC, Express Fashion Operations, LLC, Dick's Sporting Goods, Inc. (Field & Stream), Galyan's Trading Company, LLC (Dick's Sporting Goods) and Dave & Buster's of New York, Inc., and their respective successors or assigns (collectively, the "Designated Interest Holders").

In order to complete the Project, it may be necessary for the Agency to exercise its power of eminent domain if a voluntary transfer of all or portion of the Proposed Interests is not consummated. There are no alternate locations in connection with the Project.

The Public Hearing and Comment Period

In accordance with the EDPL, on April 15, 2019 at 10:30 a.m., a duly noticed public hearing was held at the Henrietta Town Hall located at 75 Calkins Road, Main Meeting Room, in the Town of Henrietta to inform the public and to review the public use, benefit or purpose to be served by the Project, the proposed location of the Project and its general effect on the environment and the residents of the locality where the Project is proposed to be constructed. At the public hearing, the public was provided an opportunity to provide any comments and written comments were accepted by the Agency through the close of business on April 22, 2019 (such comment period collectively with the April 15, 2019 public hearing hereinafter referred to as the "April 2019 Hearing").

The comments received during the April 2019 Hearing have been reviewed, made part of the record and accorded full consideration by the Agency.

Below is a summary of certain of the comments received during the April 2019 Hearing:

- (i) A Commenter expressed that the notice of the public hearing was "vague" and that the public purpose to be served by the proposed acquisition of the Proposed Interests by the Agency is "unidentified" and consists only of "generic justification" and questioned whether the proposed acquisition of the Proposed Interests by the Agency will serve a public purpose.
- (ii) A Commenter indicated that the proposed acquisition of the JC Penney Parking Parcel would result in the loss of parking for the JC Penney department store.
- (iii) A Commenter questioned whether the Agency has authority under the New York General Municipal Law to acquire the Proposed Interests by condemnation.
- (iv) A Commenter claimed that in the Agency must provide a detailed plan before taking property for economic development, citing Kelo v. City of New London.

545 U.S. 469, 477 (2005); Goldstein v. New York State Urban Development Corp., 13 N.Y.3d 511 (2009); and Kaur v. New York State Urban Development Corp., 15 N.Y.3d 235, 254 (2010).

The EDPL does not require that the Agency address in its determination and findings every specific concern or objection raised at the April 2019 Hearing. The Agency's responses to certain of the comments that were received during the April 2019 Hearing are summarized below, and in some cases as more fully set forth in the determination and findings:

- (i) In response to comments questioning whether the proposed acquisition of the Proposed Interests by the Agency will serve a public purpose because of how generally described and/or undefined it is, the EDPL simply requires that the determination to exercise eminent domain power be rationally related to a conceivable public purpose. See Matter of Aspen Cr. Estates, Ltd. v Town of Brookhaven, 47 A.D. 3d 267 (2nd Dept., 2007) As set forth herein, the Agency's proposed acquisition of the Proposed Interests serves a public purpose because it, among other things, furthers economic development in the County, advances employment opportunities, and contributes towards economic redevelopment, thereby carrying out the purpose of the Agency under the Act and assures proper development of the Proposed Site.
- (ii) In response to comment pertaining to the loss of parking for the JC Penney department store, the acquisition of the JC Penney Parking Parcel is necessary at this time in order for the Company to more appropriately market and make attractive the Proposed Site for future redevelopment and reuse of the Project Site, and the potential loss, if any, of parking for the JC Penney department store would not be ascertainable until at such time the Project use materializes and the Agency has considered same in making its determination and findings and in undertaking its SEQRA review as described herein and the Agency SEQRA Resolution (as defined below).
- (iii) In response to comment suggesting that the Agency does not have the authority under the New York General Municipal Law to acquire the Proposed Interests by condemnation, the Agency, under Section 858(4) of the New York General Municipal Law has the power to "acquire ... pursuant to the provisions of the eminent domain procedure law ... real property ... necessary for its corporate purposes." As more fully set forth herein, the proposed acquisition of the Proposed Interests by the Agency will further its corporate purposes, which are also public purposes in and of themselves, and the acquisition is therefore within the authority of the Agency.
- (iv) In response to comments regarding the Agency's compliance with the conditions set forth in Kelo v. City of New London, 545 U.S. 469, 477 (2005) and Goldstein

v. New York City Urban Development Corp., 13 N.Y.3d 511 (2009), the development plan(s) discussed therein is not a prerequisite to the Agency's proposed acquisition of the Proposed Interests. While such a plan is one way of demonstrating that a condemnation is rationally related to a conceivable public purpose, it is not the only way to do so. Under the EDPL, the Agency is required to demonstrate that the proposed acquisition will serve a conceivable public purpose. The determination and findings set forth herein demonstrate that the Agency's acquisition will serve a public purpose.

In response to comments regarding the Agency's compliance with the conditions set forth in Kaur v. New York State Urban Development Corp., 15 N.Y.3d 235, 254 (2010), the proposed acquisition of the Proposed Interests by eminent domain satisfies the requirements of Kaur. While the condemnor in Kaur considered a wide range of factors and extensively documented its finding that the property was blighted, here, the Agency is not constrained to redeveloping blighted areas, but may acquire property for development consistent with the Act, including but not limited to "promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities" which are some of the very purposes sought to be fulfilled by the Agency as demonstrated by the determination and findings set forth herein.

EDPL Section 204

At a duly noticed and scheduled meeting on June 18, 2019, in addition to the above findings, the Agency makes the following specific determination and findings (collectively, the "Determination and Findings") concerning the Project pursuant to EDPL Section 204:

I. The Public Use, Benefit or Purpose To Be Served by the Project [EDPL § 204(B)(1)].

The proposed acquisition of the Proposed Interests in connection with the undertaking of the Project will serve a public use, benefit and/or purpose because it will advance the overall general prosperity and economic and welfare of the residents of the County by returning the vacant and/or underutilized Proposed Site to productive use thereby advancing the purpose of the Agency under the Act by (i) combating economic stagnation through stimulating, promoting and/or supporting new and/or existing economic revitalization and redevelopment efforts, (ii) advancing employment opportunities, (iii) increasing, broadening, diversifying and strengthening

the County's economic base, (iv) enhancing the overall functionality and/or attractiveness of the Mall Facility and surrounding area, (v) attracting and retaining new, diverse and/or expanded industry, business and/or other commercial activity thereby promoting economic revitalization, employment, less development on previously undisturbed locations, and by attracting, accommodating and/or retaining new, diverse and/or expanded tenant(s) and/or end user(s) to the Proposed Site such action would, among other things, attract additional visitors to the Mall Facility to the benefit of all existing tenants/users of the Mall Facility, increase sales tax revenues and decrease the negative impacts associated with large "greyfields" and/or vacant buildings within the County and/or (vi) as appropriate, may include, but not limited to, complementing and/or advancing any public purpose contemplated by the Plans.

II. Location of the Project and Reasons for Selection of that Location [EDPL § 204(B)(2)].

The location of the Project is in the Town and is identifiable by the Proposed Site and including, but not limited to, any and all related parking and entrance/loading/unloading realignments, parking improvements, infrastructure, roadway or site improvements or modifications necessary therefor throughout the Mall Facility including, without limitation, related parking garages, buildings of heights in excess of two (2) stories, designation of restricted parking on the Remote Parking Area and signage. Such location was determined based upon the request of the Company to the Agency to assist in the redevelopment and reuse of the Project Site. There are no alternate locations in connection with the Project.

III. General Effect of the Project on the Environment and Residents of the Locality [EDPL § 204 (B)(3)].

By resolution duly adopted on June 18, 2019 (the "Agency SEQRA Resolution") and the completed Full Environmental Assessment Form ("EAF"), including Part 1 of the Full EAF for

the Project and the attachments thereto, Parts 2 and 3 of the Full EAF, and accompanying written reasoned elaboration, the Agency, under Article 8 of the New York Environmental Conservation Law and associated regulations promulgated thereunder (collectively known hereafter as "SEQRA"), found that the Project constituted an "Unlisted Action" (as such quoted term is defined under SEQRA). The Agency further found that: (i) the Project will not have any significant adverse environmental impacts; and (ii) no environmental impact statement need be prepared for such action. Such determination of the Agency constituted the adoption of a Negative Declaration for purposes of SEQRA and no further review or action is required pursuant to SEQRA with respect to the Project. The Agency SEQRA Resolution and the EAF, together with any other documents and information on which it was based, is incorporated herein by reference and is made a part hereof.

The general effect on the environment of the Agency's proposed acquisition of the Proposed Interests is that the acquisition will have no significant adverse effect on the environment. The Project does not involve construction on, or physical alteration of, the land surface of the proposed site, such as grading, clearing, filling, excavation or construction activities. Although the Agency has been informed by the Company of a potential reuse and redevelopment of the Proposed Site, the Agency is not aware that any applications have been submitted to the Town or other relevant state and local agencies, and regardless of such potential reuse and redevelopment coming to fruition, the Agency is proposing to undertake the Project for the purpose of the ultimate redevelopment of the Proposed Site. Because no specific final development plans are proposed for the Proposed Site at this time, any assessment of potential impacts would be speculative. Any potential impacts from any future development of the Proposed Site will be appropriately addressed in accordance with SEQRA, and applicable land

use and zoning approvals, once the particulars of any such development of the Proposed Site are known, and such review will be no less protective of the environment. Further, the acquisition of the Proposed Interests and potential future development of the Proposed Site will positively impact the residents of the County, thereby advancing the creation of additional job opportunities and otherwise support the general prosperity and economic welfare of the County's residents. Any specific impacts to residents of the County will be appropriately addressed under the Town's zoning laws and SEQRA at such time as future development is proposed.

IV. Other Relevant Factors [EDPL § 204 (B)(4)].

The Agency has given due consideration to the comments received during the April 2019 Hearing. In addition, the Agency has taken into account public opinion and concerns, if any, expressed through the SEQRA process associated with the Project. If a voluntary transfer of the Proposed Interests cannot be consummated by the Agency, then the Agency may proceed with condemnation of the Proposed Interests in connection with the undertaking of the Project.

Conclusion

Based on due consideration of the foregoing, the Agency hereby makes its Determination and Findings in accordance with the EDPL in connection with the acquisition of the Proposed Interests by condemnation in connection with the undertaking of the Project.

Dated: June 18, 2019

* * *

Exhibit A To Determinations and Findings – Description of Proposed Interests

The Proposed Interests, collectively, consists approximately of all or a portion of certain real property interests of the Designated Interest Holders, their respective successors or assigns, as described in the Determinations and Findings and include, without limitation, the Primary Contractual Rights. The Primary Contractual Rights, as relating to the Project, have been identified by the Company as the following:

Leases:

1. **Old Navy¹** – no build area prohibitions (ON Lease § 1(b)), prohibitions against relocation (ON Lease § 1(b)), or consent rights related to the Project (Id. § 30(d),(e) (requiring consent for "Successor or Replacement Store")); prohibitions of Hylan Drive entrance changes as entry "1", "2" and "3" (Id. § 1(b)); consent rights for or prohibitions against changes in the Ring Road parking areas and traffic changes (Id. § 1(b)); entrance next to Sears facing Hylan Drive (Id. § 1(b) (prohibiting relocation)); and ability to pay a reduced rent when co-tenancy provisions are not met within the Mall (Id. §30(c)-(g)).
2. **Sears²** – prohibition of consent rights to changes in the Common Areas (REA §§ 19.1-.6, 37.3, Ex. J(a)), Ring Road (Id. §§ 6.4 (requiring consent for dedicating rights to any municipality or governmental agency), 39.1), parking areas and traffic changes (Supp. Agreement Am. No. 2 § 8; REA §§ 8.1(d), 16.1), prohibition against parking above ground level (REA § 37.4) and ability of Marketplace Mall to choose tenants (Supp. Agreement §4(A)-(C); REA § 14.1(a)); rights under Supplemental Agreement³ and Sublease to the extent the restrictions exceed rights remaining under the REA⁴ after the taking described below; ability of Marketplace Mall to develop freestanding commercial facilities in the current parking areas relating to the Project (REA §§ 8.1(a), 55.3).

¹ Agreement of Lease, dated as of June 11, 2010 (hereinafter "ON Lease"), by and between The Marketplace ("Landlord") and Old Navy, LLC ("Tenant").

² Sublease, dated as of February 17, 1981, by and between The Marketplace ("Landlord") and Sears, Roebuck and Co. ("Tenant"); First Amendment to Sublease, dated as of July 31, 1981, by and between Landlord and Tenant; and Lease Modification Agreement, dated as of February 6, 2002, by and between Landlord and Tenant.

³ Supplemental Agreement, dated as of February 17, 1981, by and between The Marketplace ("Developer") and Sears, Roebuck and Co. ("Sears"); Amendment to Supplemental Agreement, dated as of May 27, 1983, by and between Developer and Sears; Amendment No. 2 to Supplemental Agreement, dated as of May 14, 1998 ("Am. No. 2"), by and between Developer and Sears; and Amendment No. 3 to Supplemental Agreement, dated as of January 16, 2002, by and between Developer and Sears.

⁴ Amended and Restated Construction, Operation and Reciprocal Easement Agreement, dated as of May 14, 1998 (hereinafter as amended "REA"), by and among The Marketplace ("Developer") and J. C. Penney Properties, Inc. ("Penney"), The May Department Store Company ("Adcor"), Sears, Roebuck and Co. ("Sears") and The Bon-Ton Department Stores, Inc. ("The Bon-Ton"; and, collectively with Penney, Adcor and Sears, the "Department Stores"); and First Amendment to the Amended and Restated Construction, Operation and Reciprocal Easement Agreement, dated as of January 16, 2002, by and among Developer and the Department Stores.

3. **JCPenney^{5 6}** – prohibition or consent rights to changes in the Common Areas (REA §§ 19.1-.6, 37.3, Ex. J(a)), Ring Road (REA §§ 6.4 (requiring consent for dedicating rights to any municipality or governmental agency), 39.1), parking areas and traffic changes (REA §§ 8.1(d), 16.1), and ability of Marketplace Mall to choose tenants / required diversification of merchandise (Supp. Agreement § 5(A)-(B); REA § 14.1(a)); and ownership of the Ring Road and entrance from Hylan Drive subject to continued right in common to use (REA § 19.2(a)); ability of Marketplace Mall to develop freestanding commercial facilities in the current parking areas relating to the Project (REA §§ 8.1(a), 55.3).
4. **Victoria Secret⁷** – co-tenancy clause (VS Lease Art. IX, § 2(A); Id. Art. XVIII, § 15 (providing remedies for violating co-tenancy clause)) and prohibition against relocation (Id. Art. VI, § 2(i)).
5. **Bath and Body Works⁸** – co-tenancy clause (BBW Lease Art. IX, § 2(A); Id. Art. XVIII, § 15 (providing remedies for violating co-tenancy clause)) and prohibition against relocation (Id. Art. VI, § 2(i)).
6. **Express⁹** – co-tenancy clause as an obligation to have 8 outlets (Express Lease Art. IX, § 2(A); Id. Art. XVIII, § 15 (providing remedies for violating co-tenancy clause)) and prohibition against relocation (Id. Art. VI, § 2(i)).
7. **Field and Stream¹⁰** – no build areas (FS Lease § 1.2(a), (c)), critical access ways (Id. § 1.2(f)), restrictions on use of the shopping center for non-retail and entertainment uses (Id. § 1.4(a)) and prohibitions against modifications of the shopping center (Id. §§ 1.3, 1.8(b), (e), 3.6(b)).
9. **Dick's¹¹** – Use restrictions, including prohibiting hotel on shopping center area (Dick's Lease §§ 15.01(a), 15.03(a)(i), (b)(xxi)); co-tenancy requirements (Id. § 3.05); prohibition of changes on Mall with respect to the Project without Dick's consent (Id. §§ 5.01, 10.01(b), (c)(i), (iii), 10.04, 15.02(a), (b)).

⁵ Sublease, dated as of February 17, 1981, by and between The Marketplace ("Landlord") and J. C. Penney Properties, Inc. ("Tenant"); and Sublease Amendment, dated as of November 1, 1982, by and between Landlord and Tenant.

⁶ Supplemental Agreement, dated as of February 17, 1981, by and between The Marketplace and J. C. Penney Properties, Inc.

⁷ Indenture of Lease, dated as of March 8, 2016 (hereinafter "VS Lease"), by and between The Marketplace ("Landlord") and Victoria's Secret Stores, LLC ("Tenant").

⁸ Indenture of Lease, dated as of March 8, 2016 (hereinafter "BBW Lease"), by and between The Marketplace ("Landlord") and Bath & Body Works, LLC ("Tenant").

⁹ Indenture of Lease, dated as of April 3, 2017 (hereinafter "Express Lease"), by and between The Marketplace ("Landlord") and Express Fashion Operations, LLC ("Tenant").

¹⁰ Lease, dated as of January 21, 2014 (hereinafter "FS Lease"), by and between BTMPM, LLC ("Landlord") and Dick's Sporting Goods, Inc. ("Tenant").

¹¹ Lease, dated as of August 30 (hereinafter as amended "Dick's Lease"), 2000, by and between The Marketplace ("Landlord") and Galyan's Trading Company, Inc. ("Tenant"); Addendum to Lease between Landlord and Tenant, dated as of August 30, 2000; and Lease Modification Agreement, dated as of February 24, 2003, by and between Landlord and Tenant.

10. **Dave and Buster's¹²** – no build area ("protected area") that prohibits changes in the Common Areas which affect access and/or visibility including but not limited to parking rights or other rights in the Remote Parking Area (DB Lease §§ 1(b), 22(f), 32(d), (f), (g), 66(g) (relating to "Tenant's Protected Area")).
11. **With respect to All of the Above** – and any other right that would make development of the Proposed Site more difficult or costly, including, but not limited to, any rights to park in or access to or relating to the use of the Proposed Site, limitations on rebranding the Marketplace Mall and/or changing the name of Marketplace Mall (REA § 14.2; Dick's Lease § 15.01(b), and/or elimination of co-tenancy provisions that would result in reductions in rent paid (FS Lease § 1.7).

Reciprocal Easement Agreement ("REA"):

There is an existing easement agreement among the owner of the Marketplace Mall and certain "anchor" tenants providing mutually beneficial utility, parking, drainage and access easements. Sears, Penney's, MMPO (as owner of the Former Macy's Parcel) are parties with rights to block certain redevelopment efforts that could inhibit development on the Proposed Site (collectively, the "Affected REA Parties"). The Company seeks assistance from the Agency in acquiring any "no build" limitations held by the Affected REA Parties (thereby increasing what the REA describes as the Permissible Building Sites to cover the whole Mall area) (REA §§ 7.4, 37.1-.2, 55.1). The Company also seeks assistance from the Agency in acquiring any similar limitation or consent rights under the REA held by the Affected REA Parties that would inhibit development on the Proposed Site. This would include, but not be limited to, removing the requirement to operate the Marketplace Mall predominately as a retail facility (Id. § 4(C)); limitations on rebranding the Marketplace Mall and or changing the name (Id. § 14.2); remove parking garage limitations (Id. § 37.4) and all building height limitations (Id. § 8.1(a)), parking space ratios (Id. §§ 8.1(d), 16.1) or other parking covenants; remove Section 14 of the REA containing general operating covenants of the owner of Marketplace Mall; removing all rights of the Affected REA Parties that are not utility easements (Id. §§ 19.1-.6, 37.3, Ex. J(a)); and, to the extent utility easements, the owner of Marketplace Mall shall have the right to move the utilities at the expense of the Marketplace Mall owner without consent of the benefitted party but on notice provided the work is performed in a commercially reasonable manner (Id. § 22).

[END OF EXHIBIT A TO DETERMINATIONS AND FINDINGS]

¹² Agreement of Lease, dated as of February 2, 2015 (hereinafter "DB Lease"), by and between BTMPM, LLC ("Landlord") and Dave & Buster's of New York, Inc. ("Tenant").