

Preliminary Resolution

PRELIMINARY RESOLUTION

(235 River Road LLC Project)

A regular meeting of Niagara County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 6311 Inducon Corporate Drive, Suite One, Sanborn, New York on the 11th day of September, 2024 at 9:00 a.m., local time.

The meeting was called to order by the Chairperson and, upon roll being called, the following members of the Agency were:

PRESENT:

Mark A. Onesi	Chairperson
Jason Krempa	First Vice Chairman
Clifford Scott	Second Vice Chairman
William L. Ross	Secretary
Mark D. Berube	Assistant Secretary
Anne E. McCaffrey	Member
Ryan Mahoney	Member
David J. Masse	Member

ABSENT:

William Fekete	Member
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THE FOLLOWING PERSONS WERE ALSO PRESENT:

Andrea Klyczek	Executive Director
Michael Dudley	Finance Manager
Susan Barone	Grants & Operations Manager
Jeremy Geartz	Project Manager
Julie Lamoreaux	Administrative & Human Resource Officer
Mark Gabriele, Esq.	Agency Counsel

The following resolution was offered by Mr. Berube, seconded by Mr. Mahoney, to wit:

Resolution No. 8.1.1

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING THE APPLICATION OF 235 RIVER ROAD LLC WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW) TO BE UNDERTAKEN BY THE AGENCY FOR THE BENEFIT OF 235 RIVER ROAD LLC OR AN ENTITY FORMED OR TO BE FORMED; (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT; (iii) AUTHORIZING THE EXECUTIVE DIRECTOR OF THE AGENCY TO TAKE CERTAIN ACTIONS UNDER ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW IN CONNECTION WITH THE PROJECT; (iv) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 569 of the Laws of 1972 of the State of New York (the "Act"), **NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to own, lease and sell property and to issue its bonds as authorized by the Act; and

WHEREAS, **2356 RIVER ROAD LLC** and/or an individual(s) or affiliate, subsidiary, or entity or entities formed or to be formed on its behalf (the "Company"), has submitted an application to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of: (A) the acquisition by the Agency of a leasehold interest in land located at 235 River Road in the City of North Tonawanda, Niagara County, New York (the "Land"); (B) the construction of three (3) buildings totally an approximate 119,000 square foot to include 87 market rate apartment units and commercial space (the "Improvements"); and (C) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment" and collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the General Municipal Law the Agency desires to adopt a resolution describing the Project and the financial assistance that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will hold public hearings and (i) negotiate an agent agreement (the "Agent Agreement") whereby the Agency will designate the Company as its agent for the purpose of acquiring, constructing and equipping the Project, (ii) negotiate a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement"), payment-in-lieu-of-tax agreement (the "PILOT Agreement") and payment-in-lieu of tax mortgage (the "PILOT Mortgage") with the Company, (iii) take leasehold or other interest in the Land, Improvements, Equipment and personal property constituting the Facility (once the Lease Agreement, Leaseback Agreement, PILOT Agreement and PILOT Mortgage have been negotiated), and (iv) provide financial assistance to the Company in the form of sales and use tax exemptions related to the Project, consistent with the policies of the Agency, a partial real

property tax abatement and a mortgage recording tax exemption with respect to a certain payment-in-lieu-of-tax mortgage; and

WHEREAS, the Agency has scheduled public hearings and provided notice of the public hearings pursuant to Section 850-a of the Act; and

WHEREAS, the Agency must determine whether the undertaking of the Project and the providing of the contemplated financial assistance with respect to the same will be in conformance with Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (said law and regulations hereinafter collectively referred to as "SEQR"); and

WHEREAS, pursuant to Section 862 of the Act, the Project constitutes a "retail" project and, as a result, in addition to the other requirements of the Act, prior to the Agency providing any financial assistance to the Project the Agency must determine if the Project is located in a "highly distressed area" as set term is defined in Section 862 of New York General Municipal Law.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY 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, 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 Agency has the authority to take the actions contemplated herein under the Act; and

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

(D) 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.

(E) Pursuant to Section 862 of the Act, the Project constitutes a “retail” project. Subject to documentation to be provided by the Company to the Agency, the Agency hereby finds that the Project is located in a highly distressed area as defined in Section 862 of the New York General Municipal Law.

Section 2. For purposes of investigating the advisability of undertaking a coordinated review under SEQR with respect to the Project and determining whether the Project may have a "significant effect on the environment" (as such term is defined under SEQR), the Executive Director of the Agency is hereby authorized and directed to take the following actions:

(A) To obtain an Environmental Assessment Form (the "EAF) with respect to the Project from the Company; and

(B) To review the EAF with counsel to the Agency and prepare proceedings to allow the Agency to comply with SEQR; and

(C) To contact all other "involved agencies" with respect to the Project for the purposes of ascertaining whether they are interested in undertaking a coordinated review with respect to the Project; and

(D) Upon completion of the foregoing, to report to the Agency at its next meeting on the status of the environmental review process with respect to the Project.

Section 3. The Chairperson, Vice Chairperson and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to hold public hearings in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) an Agent Agreement, whereby the Agency appoints the Company as its agent to undertake the Project and to immediately provide sales tax exemption benefits for purchases and rentals related to the renovation, construction and equipping of the project, (B) a Lease Agreement, whereby the Company leases the Facility to the Agency, (C) a related Leaseback Agreement, conveying the Facility back to the Company, (D) a PILOT Agreement, whereby the Company agrees to make certain payments-in-lieu-of real property taxes, (E) a PILOT Mortgage, securing the payment of the amounts due under the PILOT Agreement and (F) related documents; *provided*, (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 4. The Agency is hereby authorized to conduct public hearings in compliance with the Act.

Section 5. The officers, employees and agents 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 the officer, employee or agent 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 6. These Resolutions shall take effect immediately upon adoption.

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

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Mark Onesi	[x]	[]	[]	[]
Jason Krempa	[x]	[]	[]	[]
Clifford Scott	[x]	[]	[]	[]
William Ross	[x]	[]	[]	[]
William Fekete	[]	[]	[]	[x]
Mark Berube	[x]	[]	[]	[]
Ryan Mahoney	[x]	[]	[]	[]
Anne E, McCaffrey	[x]	[]	[]	[]
David J. Masse	[x]	[]	[]	[]

The Resolutions were thereupon duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF NIAGARA)


I, the undersigned Secretary of Niagara County Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on September 11, 2024 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) 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 rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 11th day of September, 2024.

[SEAL]


William L. Ross, Secretary

Final Resolution

FINAL RESOLUTION
(235 River Road LLC Project)

A regular meeting of Niagara County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 6311 Inducon Corporate Drive, Suite One, Sanborn, New York on the 9th day of October, 2024 at 9:00 a.m., local time.

The meeting was called to order by the Chairman and, upon roll being called, the following members of the Agency were:

PRESENT:

Mark A. Onesi	Chairperson
Jason Krempa	First Vice Chairman
Clifford Scott	Second Vice Chairman
William L. Ross	Secretary
Mark D. Berube	Assistant Secretary
Anne E. McCaffrey	Member
Ryan Mahoney	Member
David J. Masse	Member
William Fekete	Member

ABSENT:

THE FOLLOWING PERSONS WERE ALSO PRESENT:

Andrea Klyczek	Executive Director
Michael Dudley	Manager of Finance
Susan Barone	Grants & Operations Manager
Jeremy Geartz	Project Manager
Julie Lamoreaux	Administrative & Human Resource Officer
Mark Gabriele, Esq.	Agency Counsel

The following resolution was offered by Mr. Berube, seconded by Ms. McCaffrey, to wit:

Resolution No. 7.1.1

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) UNDERTAKE A CERTAIN PROJECT FOR THE BENEFIT OF 235 RIVER ROAD LLC AN INDIVIDUAL(S) OR AFFILIATE, SUBSIDIARY, OR ENTITY FORMED OR TO BE FORMED ON ITS BEHALF (AS MORE FULLY DEFINED BELOW); (ii) DETERMINE THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; (iii) NEGOTIATE AND EXECUTE A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT, PILOT MORTGAGE AND RELATED DOCUMENTS; AND (iv) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A MORTGAGE RECORDING TAX EXEMPTION FOR THE FINANCING RELATED TO THE PROJECT; AND (C) A PARTIAL ABATEMENT OF REAL PROPERTY TAXES RELATED TO THE PROJECT, AND (D) A MORTGAGE RECORDING TAX EXEMPTION FOR THE MORTGAGE RELATED TO THE PILOT AGREEMENT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 569 of the Laws of 1972 of the State of New York (the "Act"), **NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to own, lease and sell property and to issue its bonds as authorized by the Act; and

WHEREAS, **2356 RIVER ROAD LLC** and/or an individual(s) or affiliate, subsidiary, or entity or entities formed or to be formed on its behalf (the "Company"), has submitted an application to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of: (A) the acquisition by the Agency of a leasehold interest in land located at 235 River Road in the City of North Tonawanda, Niagara County, New York (the "Land"); (B) the construction of three (3) buildings totally an approximate 119,000 square foot to include 87 market rate apartment units and commercial space (the "Improvements"); and (C) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment" and collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the General Municipal Law the Agency desires to adopt a resolution describing the Project and the financial assistance that the Agency is contemplating with respect to the Project; and

WHEREAS, on September 11, 2024, the Agency adopted a resolution (the "Preliminary Resolution") accepting the Application and directing that a public hearing be held; and

WHEREAS, it was contemplated that the Agency would hold a public hearing and (i) negotiate an agent agreement (the "Agent Agreement") whereby the Agency will designate the Company as its agent for the purpose of acquiring, constructing and equipping the Project, (ii) retain a leasehold interest in the Land, Improvements, Equipment and personal property constituting the Facility and (iii) provide financial assistance to the Company in the form of sales and use tax exemptions related to the Project, consistent with the policies of the Agency; and

WHEREAS, on the 1st day of October 2024, at 2:00 p.m., 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 Minutes of the Public Hearing along with the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions prior to said Public Hearing are attached hereto as Exhibit A; and

WHEREAS, the Agency has determined that under Section 862 of the New York General Municipal Law, that the Project may be used to make retail sales of goods or services to customers who personally visit the Project facilities to obtain such goods or services and that more than one-third of the total Project costs may be allocated for such retail purposes; and

WHEREAS, the Agency also found that based year 2022 Census data, the poverty rate was 20% and the unemployment rate was 2.72 times the state average for the year to which the data related, with respect to the adjacent census tract where the Project is located enabled the Agency to determine that the Project is located in a "highly distressed area" as said term is defined in Section 862 of the New York General Municipal Law; and

WHEREAS, the Agency has determined that providing of the contemplated financial assistance will induce the Company to develop the Project, thereby to advance job opportunities, health, general prosperity and economic welfare of the people of the County of Niagara, and to specifically promote the investment commitment, employment commitment and other commitments of the Company contained herein and within the Company's Application.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY 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, 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 Agency has the authority to take the actions contemplated herein under the Act; and

(C) The action to be taken by the Agency will induce the Company to develop the

Project, thereby advancing job opportunities, health, general prosperity and economic welfare of the people of the County of Niagara, and to specifically promote the investment commitment, employment commitment and other commitments of the Company contained herein and within the Company's Application; and

(D) 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.

Section 2. The Agency has now found that, based year 2022 Census data, the poverty rate was 20% and the unemployment rate was 11.70% or 2.72 times the state average for the year to which the data related, with respect to the adjacent census tract where the Project is located enabling the Agency to determine that the Project is located in a "highly distressed area" as said term is defined in Section 862 of the New York General Municipal Law.

Section 3. Subject to the Company executing an Agent Agreement by and between the Agency and the Company 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; (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the Agent Agreement shall expire on the date as indicated in the Agent Agreement (*unless extended for good cause by the Executive Director of the Agency*).

Section 4. 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, constants, 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 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 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, must (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 5. The Agency hereby confers on the Company in connection with the Project certain benefits, exemptions and other financial assistance consisting of: (a) an exemption benefit from all New York State and local sales and use tax exemption benefits for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, (b) an exemption benefit from mortgage recording tax, and (c) a partial abatement from real property taxes benefit conferred through a certain Payment in Lieu of Tax Agreement. The Agency will provide the Company with Project incentives totaling \$4,764,782.00, comprised of real property tax exemption benefits in the estimated amount of \$3,439,831.00, sales and use tax exemption benefits of approximately \$1,120,870.00, and mortgage recording exemption benefits of \$204,081.00. To effectuate this Resolution, the Chairman, Vice Chairman and/or the Executive Director 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 with real property tax exemption benefits; provided (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 6. The officers, employees and agents 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 the officer, employee or agent 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 7. This resolution shall take effect immediately upon adoption, and shall expire one (1) year from the date hereof unless extended for good cause by the Chairman, Vice-Chairman or Executive Director.

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

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Mark Onesi	[x]	[]	[]	[]
Jason Krempa	[x]	[]	[]	[]
Clifford Scott	[x]	[]	[]	[]
William L. Ross	[x]	[]	[]	[]
Mark D. Berube	[x]	[]	[]	[]
David J. Masse	[x]	[]	[]	[]
Ryan Mahoney	[x]	[]	[]	[]
Anne E, McCaffrey	[x]	[]	[]	[]
William Fekete	[x]	[]	[]	[]

The resolution was thereupon duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF NIAGARA)

I, the undersigned Secretary of Niagara County Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on October 9, 2024 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) 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 rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 9th day of October, 2024.




William L. Ross, Secretary

EXHIBIT A

**NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Niagara County Industrial Development Agency (the "Agency") on the 1st day of October, 2024, at 2:00 p.m., local time, in the Council Chambers, at North Tonawanda City Hall, 216 Payne Avenue, North Tonawanda, New York 14120, in connection with the following matter:

235 RIVER ROAD LLC and/or an individual(s) or affiliate, subsidiary, or entity or entities formed or to be formed on its behalf (the "Company"), has submitted an application to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of: (A) the acquisition by the Agency of a leasehold interest in land located at 235 River Road in the City of North Tonawanda, Niagara County, New York (the "Land"); (B) the construction of three (3) buildings totally an approximate 119,000 square foot to include 87 market rate apartment units and commercial space (the "Improvements"); and (C) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment" and collectively with the Land and the Improvements, the "Facility"); and

The Agency will acquire leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions and a mortgage tax exemption consistent with the policies of the Agency, and a partial real property tax abatement.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

This public hearing is being conducted in accordance with Subdivision 2 of Section 859-a of the New York General Municipal Law.

DATED: September 11, 2024

NIAGARA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Andrea Klyczek
Executive Director

**NIAGARA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Niagara County Industrial Development Agency (the "Agency") on the 1st day of October, 2024, at 2:00 p.m., local time, in the Council Chambers, at North Tonawanda City Hall, 216 Payne Avenue, North Tonawanda, New York 14120, in connection with the following matter:

235 RIVER ROAD LLC and/or an individual(s) or affiliate, subsidiary, or entity or entities formed or to be formed on its behalf (the "Company"), has submitted an application to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of: (A) the acquisition by the Agency of a leasehold interest in land located at 235 River Road in the City of North Tonawanda, Niagara County, New York (the "Land"); (B) the construction of three (3) buildings totaling an approximate 119,000 square foot to include 87 market rate apartment units and commercial space (the "Improvements"); and (C) the acquisition and installation in and around the improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment" and collectively with the Land and the Improvements, the "Facility"); and

The Agency will acquire leasehold interest in the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions and a mortgage tax exemption consistent with the policies of the Agency, and a partial real property tax abatement.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

This public hearing is being conducted in accordance with Subdivision 2 of Section 859-a of the New York General Municipal Law.

DATED: September 11, 2024

NIAGARA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

Andrea Klyczek
Executive Director
9/13/2024

N#338622

Public Hearing for 235 River Road LLC
October 1, 2024 at 2:00 p.m.
North Tonawanda City Hall

Andrea Klyczek; Welcome. This public hearing is now open; it is 2:00 p.m. My name is Andrea Klyczek. I am the Executive Director at the Niagara County Industrial Development Agency, and I will be the hearing officer to conduct this public hearing. Notice of this public hearing was published in the Niagara Gazette.

We are here to hold the public hearing on 235 River Road LLC and/or Individual(s) or Affiliate(s), Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf. The transcript of this hearing will be reviewed and considered by the Agency in determination of this project.

The proposed project (the "Project") is a proposed mixed-use redevelopment project on 3.15 acres in North Tonawanda, NY. The project will consist of two buildings totaling 87 market-rate apartments and a total of 111,689 SF. 101,391 SF of apartments, 2,690 SF of community space for residents, and 7,608 SF of commercial space.

The proposed financial assistance contemplated by the Agency includes New York State and local sales and use tax exemption benefits in compliance with Agency's tax exemption policy. The project application and project summary are posted on the Agency's website at niagaracountybusiness.com and I have copies with me today.

If you have a written comment to submit for the record, you may do so. Written comments may also be delivered to Agency at 6311 Inducon Corporate Drive, Suite One, Sanborn, New York 14132 until the comment period closes on October 9, 2024.

If anyone is interested in making a comment, please, state your name and address; if you are representing a company, please identify the company.

Andrea Klyczek: Are there any comments? Hearing none, I will now adjourn the meeting.
It is now 2:02 p.m. Thank you.

**SIGN IN SHEET
PUBLIC HEARING**

October 1, 2024 – 2:00 p.m.
North Tonawanda City Hall

regarding;

**235 River Road LLC and/or Individual(s) or Affiliate(s), Subsidiary(ies),
or Entity(ies) formed or to be formed on its behalf**

Name	Company and/or Address	X box to speak/ comment
Mark Borubz	NCIDA	
Tracey Ferrell	Niagara County Real Prop	
Alissa DiCesare-Ork	Niagara County Real Property	

EXHIBIT B

**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: Mixed-Use Redevelopment Project		
Project Location (describe, and attach a general location map): 235 River Road and 190 Main Street - Approximately 3.10 acre site with frontage on River Rd., Thompson St. and Main St. - City of North Tonawanda		
Brief Description of Proposed Action (include purpose or need): The proposed redevelopment project of the approximately 3.1 acres of property comprising the Project Site that has previously been utilized for industrial purposes consists of two buildings as follows: a four-story buildings with 48 apartments and a 4-story/1-story building with 39 apartments and approximately 9,400 sq. of first commercial space and clubhouse/amenity space along with all related improvements including parking spaces, landscaping, lighting and utility improvements and connections (collectively the "Project"). The action includes all proposed site improvements as well as all required discretionary approvals and permits needed for the Project including Amended Site Plan Approval. The Project Site is located in a Brownfield Opportunity Area and is an ideal candidate for the NYS Brownfield Cleanup Program. In addition, the Project Site is located in a Disadvantaged Community, which is a designation ascribed by NYS for the purpose of encouraging investment and economic activity in areas that are negatively impacted by environmental and climate challenges. The City of North Tonawanda has identified the Project Site as the Northern Gateway Redevelopment Project, highlighting the importance of the Project Site's location on the leading edge of downtown North Tonawanda. The proposed use is consistent with the North Tonawanda "NT Momentum Master Plan," which calls for a high density commercial and residential use.		
Name of Applicant/Sponsor: 235 River Road LLC c/o Andrew Romanowski	Telephone: (716) 225-6117	E-Mail: Andrew@alliancehomes.com
Address: 4727 Camp Road		
City/PO: Hamburg	State: NY	Zip Code: 14075
Project Contact (if not same as sponsor; give name and title/role): Sean Hopkins, Esq.	Telephone: (716) 510-4338	E-Mail: shopkins@hsmlegal.com
Address: 5500 Main Street, Suite		
City/PO: Williamsville	State: NY	Zip Code: 14221
Property Owner (if not same as sponsor): Frank J. Metzger, Gary J. Metzger, Brian Keith Metzger, c/o Thomas R. Augello, Esq.	Telephone: (716) 852-2500	E-Mail: traugello@damglaw.com
Address: 501 John James Audobon Parkway		
City/PO: Amherst	State: NY	Zip Code: 14228

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 Counsel, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	City of North Tonawanda Planning Commission - Amended Site Plan Approval	August 2024
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	City of North Tonawanda Building Dept - Building Permits; City Eng. Dept. - Sewer and Water	To be determined
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	PILOT and Incentives - Niagara County IDA	To be determined
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYSDEC Brownfield Program	Eligibility Letter received on May 28, 2024
h. Federal agencies <input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input 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, F and G. • If No, proceed to question C.2 and complete all remaining sections and questions in Part 1 	
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?	<input checked="" type="checkbox"/> Yes <input 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. Yes No
 If Yes, what is the zoning classification(s) including any applicable overlay district?
 The Project Site is located in the Downtown Mixed-Use District ("DD") in the River Road ("RR") sub-area.

b. Is the use permitted or allowed by a special or conditional use permit? Yes No

c. Is a zoning change requested as part of the proposed action? Yes No
 If Yes,
 i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? North Tonawanda

b. What police or other public protection forces serve the project site?
City of North Tonawanda Police Department

c. Which fire protection and emergency medical services serve the project site?
City of North Tonawanda Fire Department

d. What parks serve the project site?
There are parks in the City of North Tonawanda that will be accessible to the residential tenants of the project.

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)? The Project is mixed-use to include residential units for lease and commercial space.

b. a. Total acreage of the site of the proposed action? 3.10 +/- acres
 b. Total acreage to be physically disturbed? 3.10 +/- acres
 c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 3.10 +/- acres

c. Is the proposed action an expansion of an existing project or use? Yes 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? Yes 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? Yes 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? Yes No
 i. If No, anticipated period of construction: 24 months
 ii. If Yes:
 • Total number of phases anticipated _____
 • Anticipated commencement date of phase 1 (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? Yes No
 If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				87
At completion of all phases				87

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes,
 i. Total number of structures 1
 ii. Dimensions (in feet) of largest proposed structure: ~14 ft. height; 72 ft. width; and ~112 ft. length
 iii. Approximate extent of building space to be heated or cooled: 9,500 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? Yes No
 If Yes,
 i. Purpose of the impoundment: Stormwater Management Area
 ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: Stormwater runoff from Impervious surfaces.
 iii. If other than water, identify the type of impounded/contained liquids and their source.
 iv. Approximate size of the proposed impoundment. Volume: TBD million gallons; surface area: _____ acres
 v. Dimensions of the proposed dam or impounding structure: TBD 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? Yes 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? Yes 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? Yes 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? Yes 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: _____ 16,040 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: City of North Tonawanda Water Plant
- 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: _____ 16,040 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): _____
Sanitary wastewater

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

- Name of wastewater treatment plant to be used: City of North Tonawanda Wastewater Treatment Plant
- Name of district: City of North Tonawanda Sanitary Sewer 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

• Do existing sewer lines serve the project site? Yes No
 • Will a line extension within an existing district be necessary to serve the project? Yes No
 If Yes:
 • Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? Yes No
 If Yes:
 • Applicant/sponsor for new district: _____
 • Date application submitted or anticipated: _____
 • What is the receiving water for the wastewater discharge? _____

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):
 N/A _____

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____
 N/A _____

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? Yes No
 If Yes:
 i. How much impervious surface will the project create in relation to total size of project parcel?
 _____ Square feet or ~2.25 acres (impervious surface)
 _____ Square feet or ~3.10 acres (parcel size)
 ii. Describe types of new point sources. Roofs, parking lots and sidewalks _____

 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)?
Private Stormwater Management Area on the Project Site. After treatment in the Stormwater Management Area, stormwater will be discharged into the recently improved public storm sewer

• If to surface waters, identify receiving water bodies or wetlands: _____

 • Will stormwater runoff flow to adjacent properties? Yes No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? Yes No

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? Yes No
 If Yes, identify:
 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) _____

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? Yes No
 If Yes:
 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) Yes No
 ii. In addition to emissions as calculated in the application, the project will generate:
 • _____ 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)

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: _____
 ~3,000 kWh per month

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

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.

i. During Construction:

- Monday - Friday: _____ 7:00 AM - 7:00 PM
- Saturday: _____ 7:00 AM - 2:00 PM
- Sunday: _____ NA
- Holidays: _____ NA

ii. During Operations:

- Monday - Friday: _____ 7:00 AM - 10:00 PM
- Saturday: _____ 7:00 AM - 10:00 PM
- Sunday: _____ 8:00 AM - 10:00 PM
- Holidays: _____ 8:00 AM - 10:00 PM

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:
Construction activities in furtherance of the redevelopment project is an unavoidable short-term impacts that will not be potentially significant. It is expected that noise will be produced during construction period only, primarily between 7:00 AM through 5:00 PM Monday through Friday.

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:
The property will have parking lot lighting that will be shielded from neighboring properties. The commercial building will have signage lighting and standard decorative illumination. The residential buildings will have traditional code-compliant exterior lighting.

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:

E. 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:
 The Project Site is located in an urban area, including commercial, retail and industrial uses to the south, north, east and west.

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	1.00	~2.25	+ 1.25
• Forested	0	0	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0	~0.85	+0.85
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	~2.10	0	-2.10
• Other Describe: _____			

c. 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): C932165, C932171, C932181, C932142, 932100, 932099
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

C932165 - Terminated effective May 14, 2015; C932171 - Certificate of Completion issued on December 17, 2021; C932181 - BCP Application submitted; C932142 - Certificate of Completion issued on November 30, 2010; 932100 - Approval of Remedial Action Completion Report occurred in September 2004; 932099 - State remediation completed in January 1994

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ 24 feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

Fill (gravel, sand and clay)	_____ %
Natural silt and clay	_____ %
Cohesive glacial till	_____ %

d. What is the average depth to the water table on the project site? Average: _____ >15 feet

e. Drainage status of project site soils: Well Drained: _____ 100 % of site
 Moderately Well Drained: _____ % of site
 Poorly Drained _____ % of site

f. Approximate proportion of proposed action site with slopes: 0-10%: _____ 100 % of site
 10-15%: _____ % of site
 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No
 If Yes to either i or ii, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No
 [Note: There are not any wetland subject to the jurisdiction of either the USACE or NYSDEC on the Project Site.]

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name Unknown (regulation 837-18) Classification C
- Lakes or Ponds: Name Niagara River, Upper, Main Stem Classification A
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? Yes No

j. Is the project site in the 100-year Floodplain? Yes No

k. Is the project site in the 500-year Floodplain? Yes No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
 If Yes:
 i. Name of aquifer: _____

m. Identify the predominant wildlife species that occupy or use the project site: _____
 Not applicable _____

n. Does the project site contain a designated significant natural community? Yes No
 If Yes:
 i. Describe the habitat/community (composition, function, and basis for designation): _____
 ii. Source(s) of description or evaluation: _____
 iii. Extent of community/habitat:
 • Currently: _____ acres
 • Following completion of project as proposed: _____ acres
 • Gain or loss (indicate + or -): _____ acres

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? Yes No
 If Yes:
 i. Species and listing (endangered or threatened): _____

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? Yes No
 If Yes:
 i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? Yes No
 If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

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? Yes No
 If Yes, provide county plus district name/number: _____

b. Are agricultural lands consisting of highly productive soils present? Yes No
 i. If Yes: acreage(s) on project site? _____
 ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? Yes No
 If Yes:
 i. Nature of the natural landmark: Biological Community Geological Feature
 ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? Yes No
 If Yes:
 i. CEA name: _____
 ii. Basis for designation: _____
 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?</p> <p style="text-align: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District</p> <p>ii. Name: _____</p> <p>iii. Brief description of attributes on which listing is based: _____</p>
<p>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?</p> <p style="text-align: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>g. Have additional archaeological or historic site(s) or resources been identified on the project site?</p> <p style="text-align: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Describe possible resource(s): _____</p> <p>ii. Basis for identification: _____</p>
<p>h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?</p> <p style="text-align: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Identify resource: <u>Gratwick Waterfront Park</u></p> <p>ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): <u>City Park</u></p> <p>iii. Distance between project and resource: _____ <u>2.20</u> miles.</p>
<p>i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?</p> <p style="text-align: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Identify the name of the river and its designation: _____</p> <p>ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>

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 235 River Road LLC Date August 15, 2024

Signature  Title Attorney for Project Sponsor

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

PILOT Agreement

235 RIVER ROAD LLC

(the "Mortgagor")

TO

NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY,
(the "Mortgagee") for the benefit of
NIAGARA COUNTY, NEW YORK;
CITY OF NORTH TONAWANDA, NEW YORK; and
NORTH TONAWANDA CITY SCHOOL DISTRICT,
(collectively, the Taxing Jurisdictions)

PILOT MORTGAGE

Dated: as of April 1, 2026

AFTER RECORDING RETURN TO:

Gabriele & Berrigan, P.C.
ATTN: Mark J. Gabriele, Esq.
Box

PILOT MORTGAGE

THIS PILOT MORTGAGE, made as of the 1st day of April, 2026 (the "PILOT Mortgage"), is from **235 RIVER ROAD LLC** a New York limited liability company, with offices at 4727 Camp Road, Hamburg, New York 14075 (the "Company" and sometimes hereinafter referred to as the "Mortgagor"), and **NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York with offices at 6311 Inducon Corporate Drive, Suite One, Sanborn, New York 14132, as Mortgagee (the "Agency" and sometimes hereinafter referred to as the "Mortgagee"), in and for the benefit of **NIAGARA COUNTY, NEW YORK, CITY OF NORTH TONAWANDA, NEW YORK** and **NORTH TONAWANDA CITY SCHOOL DISTRICT**, each of which shall ultimately receive the PILOT Payments (collectively referred to as the "Taxing Jurisdictions").

WITNESSETH, that to secure the obligation of the Company to make all payments and perform all other obligations of the Company for the benefit of the Mortgagee and the Taxing Jurisdictions under that certain payment-in-lieu-of-tax agreement (the "PILOT Agreement") dated as of the date hereof between the Company (as such payments are described in the PILOT Agreement, a form of which is attached hereto as **Exhibit B**), the Mortgagor hereby mortgages to the Mortgagee the real property described in **Exhibit A** attached hereto (the "Mortgaged Property"), including any insurance or condemnation proceeds related thereto in an amount equal to the aggregate of all Total unpaid and defaulted PILOT Payments (as defined in the PILOT Agreement);

TOGETHER with all, right, title and interest of the Mortgagor in and to the land lying in the streets and road in front of and adjoining said Mortgaged Property in an amount equal to the aggregate of all unpaid and defaulted Total PILOT; and

TOGETHER with all fixtures, furnishings, fittings, appliances, machinery, chattels and articles of personal property now or hereafter attached to or used solely in connection with the Mortgaged Property, together with any and all replacements thereof and additions thereto in an amount equal to the aggregate of all unpaid and defaulted Total PILOT;

BEING THE SAME PREMISES and interest therein leased by the Company to the Agency pursuant to the terms of a certain Lease Agreement, dated as of the date hereof by and between the Company and the Agency (the "Lease Agreement"), and which premises and interests therein are being leased by the Agency back to the Company pursuant to the terms of a certain Leaseback Agreement, dated as of the date hereof, by and between the Company and the Agency (the "Leaseback Agreement"); which memorandum of the Lease Agreement and a memorandum of the Leaseback Agreement are intended to be recorded in the office of the Niagara County Clerk prior to or contemporaneously with the recording of this PILOT Mortgage; and

This PILOT Mortgage, when recorded, shall constitute a lien against the Mortgaged Property in an amount equal to any and all unpaid and defaulted Total PILOT Payments.

NOW THEREFORE, Mortgagor covenants and agrees with Mortgagee as follows:

1. That the Company will timely perform all of its obligations under the PILOT Agreement and will timely pay all amounts due thereunder. In addition, the Company will maintain or cause to be maintained in good condition and repair the buildings and improvements constructed, renovated and equipped or to be constructed, renovated and equipped on the Mortgaged Property, and shall not commit or permit waste or permit any nuisance to exist thereon.

2. That if any action or proceeding be commenced (except an action to foreclose this PILOT Mortgage or to collect the debt secured thereby), to which action or proceeding the Mortgagee is made a party, or in which it becomes necessary to defend or uphold the lien of this PILOT Mortgage, all reasonable out-of-pocket sums paid by the Mortgagee for the expense of any litigation to prosecute or defend the rights and lien created by this PILOT Mortgage (including reasonable counsel fees and all reasonable costs and disbursements incurred in connection with such litigation) shall be paid by the Company, together with interest thereon at the applicable rate prescribed by Title I of Article 18-A of the New York State General Municipal Law, and any such sum and the interest thereon shall be a lien on said Mortgaged Property, prior to any right, title to, interest in or claim upon said Mortgaged Property attaching or accruing subsequent to the lien of this PILOT Mortgage, and shall be deemed to be secured by this PILOT Mortgage. In any action or proceeding to foreclose this PILOT Mortgage, the provisions of law respecting the recovery of costs, disbursements and allowance shall prevail unaffected by this covenant.

3. The Mortgagee's enforcement of its rights under this PILOT Mortgage shall be expressly subject (in the case of a failure of the Company to make any payments required to be paid pursuant to the PILOT Agreement) to the limitation that no such rights may be exercised until the Company shall be in default beyond applicable notice and cure periods in the making of any payment for the benefit of the Mortgagee in accordance with the terms of the PILOT Agreement. Notwithstanding anything to the contrary contained herein, Mortgagee agrees that it shall commence its enforcement rights under this PILOT Mortgage within twelve (12) months from the date the Company shall be in default in the making of any payment for the benefit of the Mortgagee in accordance with the terms of the PILOT Agreement.

4. The Company shall name the Mortgagee as an additional insured, as its interests may appear, on any policy of hazard insurance required to be carried in connection with the Mortgaged Property, until the amounts secured by this PILOT Mortgage are paid in full.

5. The obligations and agreements of the Agency contained herein and in any other instrument or document executed in connection herewith, and any other instrument or document supplemental hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the Company) or employee of the Agency in his/her individual capacity, and the members, officers, agents (other than the Company) and employees of the Agency shall not be liable personally hereon or be subject to any personal liability or accountability based upon or in respect hereto or of any transaction contemplated hereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to any obligations of the

State of New York or Niagara County, New York, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease of the Facility (as defined in the PILOT Agreement).

Notwithstanding any provision of this PILOT Mortgage to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (A) the Agency shall have been requested to do so in writing by the Company or the Taxing Jurisdictions, and (B) compliance with such request is not reasonably expected to result in the incurrence by the Agency (or any member, officer or employee of the Agency) of any liabilities, fees, expenses or other costs, unless the Agency shall have received from the Company or the Taxing Jurisdictions, as the case may be, security or indemnity satisfactory to the Agency for protection against all such liabilities, however remote, and for the reimbursement of all such fees, expenses and other costs. This PILOT Mortgage shall in no way impair or adversely affect the Agency's Unassigned Rights (as defined in the Leaseback Agreement).

6. The term "Event of Default" as used herein shall have the meaning as set forth in the PILOT Agreement.

7. (a) Subject to the provisions of the PILOT Agreement and the provisions of Section 3 hereof, upon the occurrence and during the continuation of an Event of Default hereunder, beyond any applicable notice and cure period, the Mortgagee may, in addition to any other rights or remedies available to it hereunder, at law or in equity, take such action, as may be permitted by applicable law, as is necessary to protect and enforce its rights against the Mortgagor in and to the Mortgaged Property including, but not limited to, the following actions:

(i) enter into or upon the Mortgaged Property, either personally or by its agents, nominees or attorneys, and dispossess the Mortgagor and its agents, employees and servants therefrom and thereupon the Mortgagee may (A) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Mortgaged Property and conduct the business thereat, (B) complete any construction on the Mortgaged Property in such manner and form as the Mortgagee deems advisable, (C) make alterations, additions, renewals, replacements and improvements to or on the Mortgaged Property, and (D) exercise all rights and powers of the Mortgagor with respect to the Mortgaged Property, whether in the name of the Mortgagor or otherwise;

(ii) institute proceedings for the foreclosure of this PILOT Mortgage;

(iii) to the extent permitted by applicable law, sell or otherwise dispose of the Mortgaged Property or any part thereof and all estate, claim, demand, right, title and interest of the Mortgagor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, in whole or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law, and in the event of a sale, by foreclosure or otherwise, of less than all of the Mortgaged Property, this PILOT

Mortgage shall continue to the full extent permitted by applicable law as a lien on the remaining portion of the Mortgaged Property; or

(iv) pursue such other remedies as the Mortgagee may have hereunder, under applicable law or in equity.

(b) The avails of any sale or other disposition made under or by virtue of this Section 7, together with any other sums which then may be held by the Mortgagee under this PILOT Mortgage, whether under the provisions of this Section 7 or otherwise, shall be applied as follows:

First: To payment of the reasonable costs and expenses, including, but not limited to, necessary repairs, improvements, or environmental remediations, of any such sale or other disposition including reasonable out-of-pocket costs of the Mortgagee, its agents and counsel, and of any judicial proceedings wherein the same may be made, and all expenses, liabilities and advances reasonably made or incurred by the Mortgagee under this PILOT Mortgage on all advances made by the Mortgagee, and all taxes required to be paid in connection with such sale or other disposition of the Mortgaged Property, except any taxes or other charges subject to which the Mortgaged Property shall have been sold;

Second: To the payment of the Company's liabilities and obligations pursuant to the PILOT Agreement;

Third: The surplus, if any to the Mortgagor, or to whomsoever may be lawfully entitled to receive the same if not the Mortgagor upon ten (10) days' prior notice to the Mortgagor.

(c) The Mortgagee may adjourn from time to time any sale by it under or by virtue of this PILOT Mortgage by announcement at the time and place appointed for such sale or for adjourned sale or sales and, except as otherwise provided by any applicable provision of law, the Mortgagee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(d) To the extent permitted by applicable law, no recovery of any judgment by the Mortgagee and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property of Mortgagor shall affect in any manner or to any extent the lien of this PILOT Mortgage upon the Mortgaged Property or any part thereof or any liens, rights, powers or remedies of Mortgagee hereunder, but such liens, rights, powers and remedies of Mortgagee shall continue unimpaired.

(e) Upon the occurrence and during the continuation of an Event of Default beyond any applicable notice and cure periods, the Mortgagor, (if it is an occupant of the Mortgaged

Property or any part thereof), shall upon Mortgagee's demand immediately surrender possession of the Mortgaged Property (or the portion thereof so occupied) to Mortgagee.

8. To the extent permitted by applicable law, no remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Mortgagee in exercising any right or power accruing upon an Event of Default shall impair any such right or power, or shall be construed to be a waiver of such Event of Default, or any acquiescence therein; and every power and remedy given by this PILOT Mortgage to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee, provided, however, Mortgagee agrees that it shall commence its enforcement rights under this PILOT Mortgage within twelve (12) months following an Event of Default. Without limiting the generality of the foregoing, any payment made by Mortgagee for insurance premiums, taxes, assessments, water rates, sewer rentals, levies, fees or any other charges affecting the Mortgaged Property shall not constitute a waiver of Mortgagor's obligations in making such payments and shall not obligate Mortgagee to make any further payments. Nothing in this PILOT Mortgage or in the PILOT Agreement shall affect the obligation of the Company to perform under the PILOT Agreement in the manner and at the time and place therein expressed.

9. In the event any covenant or agreement contained in this PILOT Mortgage should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Agency and the Company or any delay or omission on the part of Mortgagee in exercising any rights hereunder or under any other document shall operate as a waiver.

10. Notwithstanding anything contained herein to the contrary, the Mortgagee hereby agrees that there shall be no recourse against the Company for any liability to the Mortgagee arising in connection with any breach or default under this PILOT Mortgage, or the PILOT Agreement, by the Company except to the extent the same is enforced against the rights, title and interest of the Company in the Mortgaged Property, and the Mortgagee shall look solely to the rights, title and interest of the Company relating to the Mortgaged Property in enforcing its rights against the Company under and in connection with this PILOT Mortgage or the PILOT Agreement; provided that (a) the foregoing provisions of this Section shall not constitute a waiver, release or discharge of any of the obligations arising under, or of any of the terms, covenants, conditions, or provisions of, this PILOT Mortgage or the PILOT Agreement, but the same shall continue until fully paid, discharged, observed, or performed, and (b) the foregoing provisions of this Section shall not limit or restrict the right of the Mortgagee to name the Company or any other Person as a defendant in any action or suit for a judicial foreclosure or for the exercise of any remedy under or with respect to this PILOT Mortgage or the PILOT Agreement, or for injunction or specific performance. In addition, nothing contained in this Section shall limit in any way the ability of the Mortgagee to enforce its rights or the rights of the Company against any Person other than the Company under this PILOT Mortgage or the PILOT Agreement.

11. The Company, as agent of the Agency, shall bear any and all costs and expenses pertaining to this PILOT Mortgage and the perfection thereof, including but not limited to any applicable recording fees and mortgage taxes, the New York State mortgage tax (1/2 of 1%) and additional mortgage tax (1/4 of 1%), to the extent applicable. To the extent Agency is not exempt from the payment of any of the foregoing costs and expenses, the Company shall pay same.

12. All notices, certificates and other communication hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (A) sent to the applicable address stated below by registered or certified mail, return receipt requested, or by telecopy or other electronic means of communication, followed by prompt written confirmation thereof, or by such other means as shall provide the sender with documentary evidence of such delivery, or (B) delivery is refused by the addressee, as evidenced by the affidavit of the person who attempted to effect such delivery. The addresses to which notices, certificates and other communication hereunder shall be delivered are as follows:

If to the Agency:

Niagara County Industrial Development Agency
6311 Inducon Corporate Drive, Suite One
Sanborn, New York 14132
Attn: Andrea Klyczek, Executive Director

With a copy to:

Gabriele & Berrigan, P.C.
800 Main Street, 4th Floor
Suite B
Niagara Falls, New York 14301
Attn: Mark J. Gabriele, Esq.

If to the Company:

235 River Road LLC
4727 Camp Road
Hamburg, New York 14075
Attn: Andrew Romanowski, Sole Member

with a copy to:

Hopkins Sorgi & McCarthy PLLC
35 California Drive, Suite 100
Williamsville, New York 14221
Attn: Sean Hopkins, Esq.

If to the County:

Niagara County Manager
Philo J. Brooks Building
59 Park Avenue
Lockport, New York 14094

and

Chairman
Niagara County Legislature
County Courthouse
175 Hawley Street
Lockport, New York 14094

If to the City:

Mayor
City of North Tonawanda
216 Payne Avenue
North Tonawanda, New York 14120

If to the School District:

Superintendent
North Tonawanda Central School District
176 Walck Road
North Tonawanda, New York 14120

The parties by notice given in accordance with this Section 12 to each of the others, may designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

13. Terms with capitalized first initials used in this PILOT Mortgage shall have the meanings ascribed to such terms in the PILOT Agreement unless the context otherwise requires. The word "Mortgagor" shall be construed as if it read "Mortgagors" whenever the sense of this PILOT Mortgage so requires. The word "Mortgagee" shall be construed as if it read "Mortgagees and the Taxing Jurisdictions" whenever the sense of this PILOT Mortgage so requires.

14. If an Event of Default shall have occurred and be continuing, beyond any applicable notice and cure periods, Mortgagee (subject to the provisions of Section 3 hereof), as a matter of right and without regard to the adequacy of the Mortgaged Property as collateral security, but after notice to Mortgagor, shall have the right to appoint a receiver or receivers, and Mortgagor hereby irrevocably consents to such appointment.

15. Mortgagor agrees that it will not, at any time, insist upon or plead in any way the advantage of any appraisal, valuation, stay, marshaling of assets, extensions, redemption or moratorium law now or hereafter in force and effect so as to prevent, hinder or delay the enforcement of the provisions of this PILOT Mortgage or any rights or remedies, including foreclosure proceedings, Mortgagee may have hereunder or by law or equity.

16. The Company represents and warrants that the Agency has a good and insurable leasehold interest in the Mortgaged Property pursuant to the Lease Agreement and that the Company has a good and insurable leasehold interest in the Mortgaged Property pursuant to the Leaseback Agreement.

17. In the case of a foreclosure sale, the Mortgaged Property may be sold in one parcel.

18. This PILOT Mortgage may not be effectively waived, discharged, amended, changed, modified, altered or terminated, unless such amendment, change, modification, alteration or termination is in a writing intended for such purpose and executed and delivered by Mortgagee and Mortgagor.

19. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this PILOT Mortgage shall for any reason be finally held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal, or unenforceable shall be deemed separate, distinct and independent, and the remainder of this PILOT Mortgage shall be and remain in full force and effect and shall not be invalidated or rendered illegal or enforceable or otherwise affected by any such holding or adjudication.

20. This PILOT Mortgage shall be governed by and construed in accordance with the laws of the State of New York, exclusive of New York's conflict of laws, rules and public policies. This PILOT Mortgage constitutes the final expression of the agreement between Mortgagor and Mortgagee with respect to its subject matter, and all prior and contemporaneous discussions, negotiations, drafts and agreements are hereby merged into and superseded by this PILOT Mortgage. Notwithstanding the foregoing, it is expressly agreed that the PILOT Agreement and each of the Company's obligations thereunder shall survive the execution, delivery and recording of this PILOT Mortgage.

21. If any action or proceeding be commenced by or on behalf of Mortgagee to foreclose this PILOT Mortgage, the Company agrees to pay to Mortgagee its reasonable out-of-pocket attorneys' fees and other expenses incurred in connection with such action or proceeding, and such amounts shall be a lien on the Mortgaged Property prior to any right or title to, or interest in, or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this PILOT Mortgage.

22. The rights of Mortgagee under this PILOT Mortgage are independent of and cumulative to its rights, with respect to the collection of special assessments and special ad valorem levies, if any, lawfully assessed against the Mortgaged Property or any part thereof.

23. This PILOT Mortgage constitutes a security agreement under the New York Uniform Commercial Code with respect to any portion of the Mortgage Property which is personal property and Mortgagee shall have all of the rights and remedies of a secured party thereby in addition to the

rights and remedies granted by other applicable law or by this PILOT Mortgage. Mortgagor agrees to execute a UCC-1 Financing Statement to implement this provision.

24. So long as any portion of the obligations of the Company under the PILOT Agreement shall remain outstanding, the title to the Mortgaged Property and the lien of this PILOT Mortgage shall not merge, but shall always be kept separate and distinct.

25. The covenants contained in this PILOT Mortgage shall run with the land and bind Mortgagor, its heirs, personal representatives, successors and assigns and all subsequent owners, encumbrances, tenants and subtenants of the premises, and shall inure to the benefit of the Mortgagee, its personal representatives, successors and assigns and all subsequent holders of this PILOT Mortgage.

26. Upon the termination of the PILOT Agreement and the payment in full of all sums payable thereunder, Mortgagee by acceptance of this PILOT Mortgage agrees to execute and deliver any and all instruments necessary and/or appropriate to discharge the lien of record of this PILOT Mortgage.

27. If this PILOT Mortgage contains any unlawful provision not an essential part of this PILOT Mortgage and which shall not appear to have been a controlling or material inducement to the making thereof, the same shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from this PILOT Mortgage without affecting the binding force of the remainder.

28. Section headings are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this PILOT Mortgage and in no way affect this PILOT Mortgage.

29. This PILOT Mortgage may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank]

[Signature Page to PILOT Mortgage]

IN WITNESS WHEREOF, this PILOT Mortgage has been duly executed by the Mortgagor as of the day and year first above written.

235 RIVER ROAD LLC

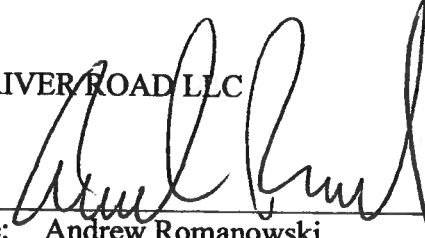
By: 
Name: Andrew Romanowski
Title: Sole Member

Exhibit A

Legal description for conveyance only:

ALL THAT TRACT OF LAND SITUATE in the City of North Tonawanda, County of Niagara, State of New York, being Part of Lot 81 of the Mile Reserve, described more particularly as follows:

Beginning at the intersection of the southerly line of Thompson Street, being 94 foot wide, and the southwesterly line of Main Street, being 66 feet wide;

Thence S 36°-41'-45" E, along the southwesterly line of Main Street, a distance of 652.82 feet dedeed, 667.87" measured, to a point on north line of lands conveyed to Robert Arbeiter as recorded in the Niagara County Clerk's Office as Instrument number 2023-00051;

Thence northwesterly, along the north line of Robert Arbeiter lands, along a curve to the left, having a radius of 373 feet and a length of 64.52 feet to the northeast corner of lands conveyed to EZ Industries, LLC as recorded in the Niagara County Clerk's Office as Instrument number 2015-12362;

Thence continuing westerly, along the north line of lands conveyed to EZ Industries, LLC, along a curve to the left, having a radius of 624 feet and a length of 136.24 feet to a point;

Thence N 84°-32'-00" W, along the north line of EZ Industries, LLC, a distance of 70.65 feet to a point;

Thence continuing westerly, along the north line of lands conveyed to EZ Industries, LLC, along a curve to the left, having a radius of 312 feet and a length of 33.22 feet to the northeasterly corner lands conveyed to EZ Industries, LLC as recorded in the Niagara County Clerk's Office as Instrument number 2016-12867;

Thence southwesterly, along the north line of lands conveyed to EZ Industries, LLC, along a curve to the left, having a radius of 311 feet and a length of 184.12 feet to a point on the northerly line Island Street, being 66 feet wide;

Thence N 82°-40'-26" W, along the northerly line Island Street, a distance of 12.05 feet to a point on the easterly line River Road, being 100 feet wide;

Thence N 05°-21'-14" W, along the easterly line River Road, a distance of 468.89 feet dedeed, 483.10" measured, to a point on the southerly line of Thompson Street;

Thence N 74°-46'-17" E, along the southerly line Thompson Street, a distance of 138.17 feet to the Point or Place of Beginning, being 3.14 acres more or less.

Exhibit B

NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

AND

235 RIVER ROAD LLC

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Regarding the leasehold interest in land, the construction and equipping of buildings totalling 119,000 sq. ft. to include 87 market rate housing units and commercial space located at 235 River Road in the City of North Tonawanda, Niagara County, New York

Affected Tax Jurisdictions:
Niagara County
City of North Tonawanda
North Tonawanda City School District

Dated as of: April 1, 2026
Termination Date: December 31, 2043
SBL No: 185.05-1-75.1

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT (the "PILOT Agreement"), dated as of the 1st day of April, 2026, is by and between the NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly existing under the laws of the State of New York with its offices at 6311 Inducon Corporate Drive, Suite 1, Sanborn, New York 14132 (the "Agency") and 235 RIVER ROAD LLC a New York limited liability company formed and existing under the laws of the State of New York, with offices located at 4727 Camp Road, Hamburg, New York 14075 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 569 of the Laws of 1972 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company has requested the Agency's assistance with a certain project (the "Project") consisting of: (A) the acquisition by the Agency of a leasehold interest in land located at 235 River Road in the City of North Tonawanda, Niagara County, New York (the "Land"); (B) the construction of three (3) buildings totally an approximate 119,000 square foot to include 87 market rate apartment units and commercial space (the "Improvements"); and (C) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment" and collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, in order to induce the Company to acquire, construct and equip the Facility, the Agency is willing to take a leasehold interest in the land, improvements and personal property constituting the Facility and lease said land, improvements and personal property back to the Company pursuant to the terms and conditions of a certain Leaseback Agreement, dated on or about the date hereof (the "Leaseback Agreement"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments-in-lieu-of-taxes by the Company to the Agency for the benefit of Niagara County (the "County"), the City of North Tonawanda (the "City"), the North Tonawanda City School District (the "School District or "School" and, collectively with the County and City, the "Affected Tax Jurisdictions").

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

Section I - Payment in lieu of Ad Valorem Taxes:

Section 1.1 A. Subject to the completion and filing by the taxable status date (March 1, 2027) (the "Taxable Status Date") of New York State Form RP-412-a Application For Real Property Tax Exemption (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Facility shall be exempt from Real Estate Taxes commencing with the 2027-2028 tax fiscal year of the School District and the 2028 tax fiscal year of the City and County and continuing for the periods set forth in Section 1.5 hereof. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the City, County and School. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Leaseback Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Agency to file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date.

B. **Payee.** As long as the Agency has a leasehold interest in the Facility, the Company agrees to pay annually to the Affected Tax Jurisdictions as a payment-in-lieu-of-taxes, on or before October 1 of each calendar year for School taxes and on or before January 1 of each calendar year for County and City taxes (collectively, the "Payment Date"), commencing on October 1, 2027 and January 1, 2028, respectively, an amount equal to the PILOT Payment, as described on **Schedule A** attached hereto.

The parties agree and acknowledge that payments made hereunder are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls.

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

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

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

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2027/2028 School tax year through the 2042/2043 School tax year, and (ii) the 2028 County and City tax year through the 2043 County and City tax year. This PILOT Agreement shall expire on December 31, 2043; provided, however, the Company shall pay the 2043/2044 School tax bills and the 2044 County and City tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this PILOT

Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b of the New York Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

Section II - Special Assessments and Service Charges.

2.1 Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges are to be paid in full in accordance with normal billing practices.

Section III - Transfer of Facility.

3.1 In the event that the Facility is transferred from the Agency to the Company (the lease/leaseback agreements are terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section I herein, or this PILOT Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination.

Section IV - Assessment Challenges.

4.1 The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility, with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

4.2 The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this PILOT Agreement, as if and to the same extent as if the Company were the owner of the Facility.

4.3 The Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments as if the

Facility were owned by the Company, (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

Section V - Changes in Law.

5.1 To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

Section VI - Events of Default and Remedies.

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company to: (i) make the payments described in Section I within thirty (30) days of the Payment Date (the "Delinquency Date"); provided the Company has received notice of the amounts due and the due date for the same; (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; or (iii) the occurrence and continuance of any events of default under the Leaseback Agreement after any applicable notice and cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the General Municipal Law and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section I herein are not made by the Delinquency Dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows. With respect to payments to be made pursuant to Section I herein, if said payment is not received by the Delinquency Date defined in Section 6.1 herein, Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

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

will all other amounts due pursuant to Section 6.2 hereof and clause (a) of Section 7 of the PILOT Mortgage (as hereinafter defined).

6.4 Subject to the rights of the mortgagees set forth in Section VIII below, whenever any Event of Default under Section 6.1 hereof shall have occurred and be continuing with respect to this PILOT Agreement, the remedies of the Agency shall be limited to the rights hereunder, under the Leaseback Agreement and under the PILOT Mortgage, subject to the rights of any lenders to cure any such Event of Default as set forth in Section VIII hereof.

Section VII - Assignment.

7. Except pursuant to a transaction permitted by the Leaseback Agreement, no portion of any interest in this PILOT Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which shall not be unreasonably withheld, conditioned or delayed.

Section VIII – Rights of Mortgagees.

8.1 For the purposes of this PILOT Agreement, the term “mortgages” shall include any mortgage, leasehold mortgage, purchase money mortgage or other security instrument or instruments encumbering the Facility, such as, without limitation, mortgages, deeds of trust, financing statements, assignments of leases, rents and/or profits, security agreements and other documentation which a mortgage may require, and the terms “holder of a mortgage” and “mortgage” shall mean the secured party under any of the foregoing instruments. ANY MORTGAGE SHALL BE A LIMITED, NON-RECOURSE OBLIGATION OF THE AGENCY AND SHALL IN NO EVENT REQUIRE THE PAYMENT BY THE AGENCY TO ANY PARTY OF ANY AMOUNT INCLUDING, BUT NOT LIMITED TO, PRINCIPAL, INTEREST OR ANY OTHER AMOUNT SECURED BY ANY SUCH MORTGAGE.

8.2 So long as the mortgage shall remain unsatisfied of record or until written notice of satisfaction is given by the Mortgagee to the Agency, the following provisions shall, subject to and unless otherwise prohibited by all applicable law including, but not limited to, the Act, apply (in respect of such mortgage and of any other mortgages which also comply with the above):

(a) There shall be no renewal, cancellation, surrender, acceptance of surrender, amendment or modification of this PILOT Agreement, or the PILOT Mortgage by joint action of the Agency and the Company along, without, in each case, the prior consent in writing of the Mortgagee, nor shall any merger result from the acquisition by, or devolution upon, any one entity of any fee and/or leasehold estates in the Facility.

(b) The Agency shall, at no cost to the Agency and at the sole cost of the Company, upon receipt of any notice or other communication, whether of default or any other matter, simultaneously serve a copy of such notice upon the Mortgagee, and no such notice of other communication to the Company shall be deemed received unless a copy is so served upon the Mortgagee in the manner provided in this PILOT Agreement for the giving of notice.

(c) Notwithstanding anything to the contrary herein, if the Agency serves a notice of default upon the Company, it shall, at no cost to the Agency and at the sole cost of the Company, also serve a copy of such notice upon the Mortgagee at the address set forth in Section 9.2 hereof.

(d) In the event of any default by the Company under this PILOT Agreement, the Mortgagee shall have fifteen (15) days for a monetary default and thirty (30) days in the case of any other default, after notice to the Mortgagee of such default (which notice shall be given in the manner set forth in Section 9.2 below), to cure or to cause to be cured the default complained of and the Agency shall accept such performance by or at the instigation of the Mortgagee as if same had been done by the Company. Each notice of default given by the Agency will state the amounts of any payments herein provided that are then claimed to be in default.

(e) If, before the expiration of the Mortgagee's cure period as provided in paragraph (3) above, the Mortgagee shall have notified the Agency in writing of its agreement to pay or cause to be paid, within fifteen (15) days after the expiration of mortgagor's cure period, all payments in this PILOT Agreement provided for and then in default, and/or in the case of non-monetary defaults, shall have agreed within forty-five (45) days to commence or cause to be commenced the cure of such non-monetary defaults, if any are then in default (other than defaults which by their nature cannot be cured), and shall prosecute or cause the prosecution of same to completion with reasonable diligence (collectively, the "extended cure period"), then the Agency shall not exercise any of its rights and remedies hereunder or under the PILOT Mortgage until expiration of the extended cure period.

(f) The Company (and not the Agency) shall give the Mortgagee notice of any arbitration or other proceeding or dispute by or between the parties hereto, and shall have the right to intervene therein and be made a party to any such arbitration or other proceeding.

(g) Except where the Mortgagee has succeeded to the interest of the Company in the Facility or assumed the right to cure as provided in this Section VIII, no liability for any payments to be made pursuant to this PILOT Agreement or the performance of any of the Company's covenants and agreements under this PILOT Agreement shall attach to or be imposed upon the Mortgagee, and if the Mortgagee or its nominee or designee succeeds to the interest of the Company in the Facility, all of the obligations and liabilities of the Mortgagee or its nominee or designee shall be limited to such entity's interest in the Facility and as otherwise imposed by this PILOT Agreement and shall cease and terminate upon assignment of this PILOT Agreement (any such further assignment to be approved by the Agency).

(h) Notwithstanding any provision of this PILOT Agreement, the Lease Agreement, the Leaseback Agreement or the PILOT Mortgage to the contrary, foreclosure of a mortgage or any sale of the Company's interest in this PILOT Agreement and/or the Facility in connection with a foreclosure, whether by judicial proceedings, or any conveyance of the Company's interest in this PILOT Agreement and/or the Facility to the Mortgagee or its nominee or designee by virtue of or in lieu of foreclosure or other appropriate proceedings, or any conveyance of the Company's interest in this PILOT Agreement and/or the Facility by the Mortgagee or its

nominee or designee, shall not require the consent or approval of the Agency and shall not be a default or Event of Default hereunder.

Section IX -- Miscellaneous.

9.1 This PILOT Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

9.2 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency: Niagara County Industrial Development Agency
6311 Inducon Corporate Drive, Suite One
Sanborn, New York 14132-9099
Attn: Andrea Klyczek, Executive Director

With Copy To: Gabriele & Berrigan, P.C.
800 Main Street, 4th Floor
Niagara Falls, New York 14302
Attention: Mark J. Gabriele, Esq.

To the Company: 235 River Road LLC
4727 Camp Road
Hamburg, New York 14075
Attn: Andrew Romanowski, Sole Member

With Copy To: Hopkins Sorgi & McCarthy PLLC
35 California Drive, Suite 100
Williamsville, New York 14221
Attn: Sean Hopkins, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

9.3 This PILOT Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Niagara County, New York.

9.4 The obligations of the Company under this PILOT Agreement shall survive the termination or expiration of the Leaseback Agreement, for whatever reason terminated or expired.

9.5 To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

9.6 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Facility and paid to the Agency by the Company. Neither member of the Agency nor any person executing this PILOT Agreement on its behalf shall be liable personally under this PILOT Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this PILOT Agreement.

9.7 The Company hereby agrees that it shall, as security for its obligations hereunder, grant to the Affected Tax Jurisdictions a mortgage lien on the Facility pursuant to a certain PILOT Mortgage, dated as of April 1, 2026, from the Company and the Agency to the Agency, for the benefit of the Affected Tax Jurisdictions (the "PILOT Mortgage"), which PILOT Mortgage shall constitute a priority mortgage lien on and security interest in the Facility.

[Remainder of Page Intentionally Left Blank]

[Signature Page to PILOT Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this PILOT Agreement as of the day and year first above written.

**NIAGARA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Name: Andrea Klyczek
Its: Executive Director

235 RIVER ROAD LLC

By: _____
Name: Andrew Romanowski
Title: Sole Member

[Signature Page to PILOT Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this PILOT Agreement as of the day and year first above written.

**NIAGARA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Name: Andrea Klyczek
Its: Executive Director

235 RIVER ROAD LLC

By: _____
Name: Andrew Romanowski
Title: Sole Member

SCHEDULE A

**TO PILOT AGREEMENT, DATED AS OF APRIL 1, 2026 BETWEEN
NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY
AND
235 RIVER ROAD LLC**

Pursuant to the terms of Section 1.2 of this PILOT Agreement, Total PILOT Payment shall mean an amount per annum as follows:

<u>PILOT Year</u>	<u>School Tax Year</u>	<u>County and City Tax Year</u>	<u>Percentage of Normal Tax</u>
Year 1	2027/28	2028	100%
Year 2	2028/29	2029	15%
Year 3	2029/30	2030	15%
Year 4	2030/31	2031	25%
Year 5	2031/32	2032	25%
Year 6	2032/33	2033	35%
Year 7	2033/34	2034	35%
Year 8	2034/35	2035	35%
Year 9	2035/36	2036	35%
Year 10	2036/37	2037	35%
Year 11	2037/38	2038	45%
Year 12	2038/39	2039	45%
Year 13	2039/40	2040	45%
Year 14	2040/41	2041	45%
Year 15	2041/42	2042	45%
Year 16	2042/43	2043	45%
Year 17 And thereafter	2043/44	2044	100%

The payments in lieu of taxes to be paid by the Company to the Affected Tax Jurisdiction pursuant to the terms of this Payment-in-Lieu-of-Tax Agreement shall be computed separately for each Affected Tax Jurisdiction as follows:

1. First, determine the amount of general taxes and general assessments (hereinafter referred to as the "Normal Tax") which would be payable to each Affected Tax Jurisdiction if the Land was owned by the Company and not the Agency by multiplying the (a) Assessed Value of the Land as determined by the appropriate Assessor by (b) the tax rate or rates of such Affected Tax Jurisdiction that would be applicable to the Land, if the Land was owned by the Company and not the Agency.

2. In each tax year during the term of this PILOT Agreement, commencing on the first tax year following the date on which the Land shall be assessed as exempt on the assessment roll of any Affected Tax Jurisdiction, the amount payable by the Company to the Affected Tax Jurisdiction as a payment in lieu of property tax with respect to the Land shall be an amount equal to 100% of the Normal Tax due each Affected Tax Jurisdiction with respect to the Land for such tax year.
3. Next, determine the Normal Tax which would be payable to each Affected Tax Jurisdiction if the Improvements and any portion of the Equipment assessable as real property were owned by the Company and not the Agency by multiplying the (a) Assessed Value of the Improvements and such assessable Equipment as determined by the appropriate Assessor by (b) the tax rate or rates of such Affected Tax Jurisdiction that would be applicable to the Improvements and such assessable Equipment if the Improvements and such assessable Equipment was owned by the Company and not the Agency.
4. In each tax year during the term of this PILOT Agreement, commencing on the first tax year following the date on which the Improvements and such assessable Equipment shall be assessed as exempt on the assessment roll of any Affected Tax Jurisdiction, the amount payable by the Company to the Affected Tax Jurisdiction as a payment in lieu of property tax with respect to the Improvements and such assessable Equipment shall be an amount equal to the applicable percentage of the Normal Tax due each Affected Tax Jurisdiction with respect to the Improvements and such assessable Equipment for such tax year, as shown in the table.
5. The Total PILOT Payment to be made by the Company to the Affected Tax Jurisdictions shall equal the sum of Number (2) and Number (4), above, for each tax year during the term of this PILOT Agreement.

AFFIDAVIT UNDER SECTION 255 OF TAX LAW

STATE OF NEW YORK)
) SS:
COUNTY OF NIAGARA)

I, Mark J. Gabriele, a member of the law firm of Gabriele & Berrigan P.C., having offices in Niagara Falls, New York, being duly sworn, depose and say:

1. That Gabriele & Berrigan P.C. is serving as transaction counsel with respect to the execution and delivery of the hereinafter described PILOT Mortgage, and I am familiar with the facts and circumstances set forth herein.

2. That 235 River Road LLC (the "Company") have executed a certain PILOT Mortgage, dated as of April 1, 2026 (the "PILOT Mortgage"), to the Niagara County Industrial Development Agency (the "Agency"), as Mortgagee, and for the benefit of Niagara County, New York, City of North Tonawanda, New York and the North Tonawanda City School District, for the purposes of securing the obligations of the Company to make all payments and perform all other obligations of the Company for the benefit of the Agency and the Mortgagee under a certain Payment-in-Lieu-of-Tax Agreement, dated as of April 1, 2026 (the "PILOT Agreement"), by and between the Agency and the Company, concerning the property more fully described on Exhibit A attached hereto.

3. That such PILOT Mortgage does not create or secure any new or further indebtedness or obligation.

4. That such PILOT Mortgage will be recorded simultaneously herewith in the office of the Clerk of Niagara County, New York.

Wherefore, deponent respectively requests that the PILOT Mortgage herewith tendered for recording be declared exempt from taxation pursuant to the provisions of Section 255 of Article 11 of the Tax Law of the State of New York and Section 874 of the General Municipal Law of the State of New York.



Mark J. Gabriele

Sworn to me before this
8th day of April, 2026.



Notary Public

W. MAXWELL COYKENDALL
Notary Public - State of New York
No. 02CO6013635
Qualified in Niagara County
My Commission Expires September 21, 2026