

## INDUCEMENT AGREEMENT AND PROJECT AGREEMENT

THIS INDUCEMENT AGREEMENT AND PROJECT AGREEMENT RELATING TO THE **B240 LLC FACILITY** (the "AGREEMENT") is between the **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at 584 Phoenix Drive, Rome, New York 13441 (the "Agency"), and **B240 LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 18 Division Street, Suite 401, Saratoga Springs, New York 12866 (the "Company").

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this AGREEMENT are the following:

1.01. The Agency is authorized and empowered by the provisions of Article 18-A of the General Municipal Law of the State of New York as amended, and Chapter 372 of the Laws of 1970 of the State of New York, as may be amended from time to time (collectively, the "Act") to undertake "Projects" (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable.

1.02. The purposes of the Act are (i) to promote industry and develop trade by inducing manufacturing, industrial, warehousing, research, recreation and commercial enterprises to locate or remain in the State and (ii) to encourage and assist in the providing of industrial pollution control facilities and (iii) to promote the economic welfare and prosperity of the inhabitants of the State. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes.

1.03. (a) The Company has submitted to the Agency an Application for Financial Assistance dated August 9, 2021, which Application may be amended from time to time prior to closing of the sale-leaseback or lease-leaseback transaction described below (the "Application") requesting that the Agency assist in Phase 3 of multi-phased mixed-use community, which Phase 3 consists of the acquisition of a 1.67± acres of land located at 1371 Floyd Avenue, Griffiss Business and Technology Park, City of Rome, Oneida County, New York (the "Land"); construction on the Land of two, four-story buildings comprised of studio, one bedroom, and two bedroom apartments for a collective total of 100 market rate apartments, together with infrastructure to service the same (collectively, the "Improvements"); and acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of providing housing within the community for existing and future employees of the Griffiss Business and Technology Park and surrounding employers, and to enhance talent recruitment and economic development in the region (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the construction and equipping of the Improvements is referred to as the "Project").

(b) Griffiss Local Development Corporation ("GLDC") owns the Land and leases the Land to the Agency, pursuant to a Lease Agreement dated as of July 1, 2014 as amended on August 31, 2016 (the "GLDC Lease"). The Agency leases the

Land back to GLDC for GLDC's development pursuant to a Leaseback Agreement dated as of July 1, 2014 as amended on August 31, 2016 (the "GLDC Leaseback"). GLDC, with the consent of the Agency, will convey the Land to the Company, subject to the GLDC Lease and the GLDC Leaseback. The Company will lease the Facility to the Agency and the Agency will lease the Facility back to the Company pursuant to a Leaseback Agreement (the "Leaseback Agreement"), both subject to the GLDC Lease. The Agency and GLDC will then release the Land from the GLDC Lease and GLDC Leaseback.

(c) Phase 1 consists of the acquisition of a 4.33± acre parcel of land located at 85 and 86 Hangar Road West, Griffiss Business and Technology Park, City of Rome, Oneida County, New York (the "Phase 1 Land"); construction on the Phase 1 Land of two, four-story mixed-use buildings comprised of 30,600± square feet of retail/commercial space on the first floor and 84 market rate residential one- and two-bedroom apartments on the second through fourth floors, together with sidewalks and infrastructure to service the same (collectively, the "Phase 1 Improvements"); and acquisition and installation of equipment in the Improvements (the "Phase 1 Equipment"), all for the purpose of providing housing and amenities within the community for existing employees of the Griffiss Business and Technology Park, and to enhance talent recruitment and economic development in the region (the Phase 1 Land, the Phase 1 Improvements and the Phase 1 Equipment are referred to collectively as the "Phase 1 Facility" and the construction and equipping of the Phase 1 Improvements is referred to as the "Phase 1 Project").

(d) Phase 2 consists of the acquisition of a 6.00± acre parcel of land located at 129 and 143 Air City Boulevard, Griffiss Business and Technology Park, City of Rome, Oneida County, New York (the "Phase 2 Land"); construction on the Phase 2 Land of two, four-story mixed-use buildings comprised of 26,000± square feet of retail/commercial space on the first floor and 72 market rate residential one- and two-bedroom apartments on the second through fourth floors, together with sidewalks and infrastructure to service the same (collectively, the "Phase 2 Improvements"); and acquisition and installation of equipment in the Phase 2 Improvements (the "Phase 2 Equipment"), all for the purpose of providing housing and amenities within the community for existing employees of the Griffiss Business and Technology Park, and to enhance talent recruitment and economic development in the region (the Phase 2 Land, the Phase 2 Improvements and the Phase 2 Equipment are referred to collectively as the "Phase 2 Facility" and the construction and equipping of the Phase 2 Improvements is referred to as the "Phase 2 Project")

(e) The Company leases the Phase 1 Project to the Agency pursuant to a Lease Agreement dated as of December 3, 2019 (the "Phase 1 Lease Agreement") and the Agency leases the Phase 1 Project back to the Company for its operation pursuant to a Leaseback Agreement dated as of December 3, 2019 (the "Phase 1 Leaseback Agreement"). The Company leases the Phase 2 Project to the Agency pursuant to a Lease Agreement dated as of December 28, 2020 (the "Phase 2 Lease

Agreement”) and the Agency leases the Phase 2 Project back to the Company for its operation pursuant to a Leaseback Agreement dated as of December 28, 2020 (the “Phase 2 Leaseback Agreement”).

1.04. The Company hereby represents to the Agency that the Project (a) will not result in the removal of an industrial or manufacturing plant from one area of the State to another area of the State or an abandonment of one or more plants of the Company located in the State; (b) is reasonably necessary to discourage the Company from removing such other plant or facility to a location outside the State, or (c) is reasonably necessary to preserve the competitive position of the Company in its industry. The construction and equipping of the Facility has not/did not commence (d) as of August 20, 2021.

1.05. The Agency has determined that the acquisition, construction and equipping of the Facility, as described in the Company’s Application, will promote and further the purposes of the Act and will promote employment opportunities and prevent economic deterioration in the area served by the Agency by filling the demand for market rate housing units described in the report released by the County of Oneida entitled, *Oneida County Vision 2020 – Path Toward Prosperity Initiative* (the “Vision 2020 Study”).

1.06. On August 20, 2021, the Agency adopted a resolution (the “Resolution” or the “Inducement Resolution”) agreeing to undertake the Project in order to assist the Company and to effectuate the purposes of the Act and, subject to the happening of all acts, conditions and things required precedent to such undertaking and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, to undertake a sale-leaseback or lease-leaseback transaction in connection with the Project.

1.07. In the Resolution, the Agency appointed the Company and its agents and other designees, as its agent for the purposes of acquiring, constructing and equipping the Facility, and such appointment includes the following activities as they relate to the acquisition, construction and equipping of the Facility, whether or not the materials, services or supplies described below are incorporated into or become an integral part of the Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquiring, constructing and equipping the Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with acquiring, constructing and equipping the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the Facility, including all repairs and replacements of such property. Such agency appointment includes the power to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite

or proper for completing the Facility, all with the same powers and with the same validity as the Agency could do if acting on its own behalf.

1.08. (a) In the Resolution, the Agency determined that the Project achieves a score of 80 points and qualifies for financial assistance in the form of reduction of real property taxes for a period of ten (10) years, exemptions from mortgage recording taxes, and exemptions from sales tax on materials and equipment acquired and installed in connection with the Project, which financial assistance is consistent with the Tier 1 benefits described in the Housing Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein (collectively, the "Financial Assistance"). Attached hereto as Exhibit A is a summary of the criteria the Agency considered in determining the qualifications for Financial Assistance (the "Project Scoring Criteria").

(b) Based upon representations made by the Company in the Application, the value of the Financial Assistance is described as follows:

- Sales and use tax exemption estimated at \$648,925 but not to exceed \$713,817
- Mortgage recording tax exemption estimated at \$136,628 but not to exceed \$150,291
- Real property tax abatement estimated at \$753,348

(c) After completion of the Project, the Company will provide the Agency with copies of all Certificates of Occupancy and certify to the Agency that the Facility was constructed substantially in accordance with the Project Scoring Criteria (or, in the alternative, will certify any changes that were made to the Project) so the Agency can score the Project again (the "Final Project Review"). The Agency reserves the right to reduce Financial Assistance if the Final Project Review returns a lower score than contained in the Project Scoring Criteria. If the Final Project Review returns a score of less than 40 points, the Agency reserves the right to recapture Financial Assistance.

1.09. It is understood and agreed by the parties that the purpose of the Agency's provision of Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Project facility to advance job opportunities, health, general prosperity and economic welfare of the people of Oneida County and to otherwise accomplish the public purpose of the Act.

1.10. Attached as Exhibit B to this AGREEMENT is a copy of the PILOT Agreement that reflects the Financial Assistance currently contemplated by the Agency in the Resolution. The Company acknowledges that the Agency (a) reserves all rights to amend the PILOT Agreement to reflect the terms of the Financial Assistance for which the Agency grants final approval as it authorizes in the final authorizing resolution or as determined in the Agency's Final Project Review and (b) is under no obligation to enter

into the PILOT Agreement unless all conditions described in Section 4.02 hereof are met to the satisfaction of the Agency. If the Final Project Review returns a score between 50 and 59 points, then the Agency and the Company shall amend the PILOT Agreement to reflect the Tier 2 financial assistance contained in the Agency's Housing Policy. If the Final Project Review returns a score less than 50 points, the Agency shall terminate the PILOT Agreement. The Agency and the Company acknowledge that the form of PILOT Agreement attached to this Agreement as Exhibit B may differ from the final PILOT Agreement signed and delivered by the Agency and the Company, but the Financial Assistance described in the PILOT Agreement attached as Exhibit B will not differ unless approved by a supplemental resolution duly adopted by the Agency.

Article 2. Undertakings on the Part of the Agency. Based upon the statements, representations and undertakings of the Company regarding the Facility and subject to the conditions set forth herein, the Agency hereby confirms and acknowledges:

2.01. Upon satisfactory completion of the conditions precedent set forth herein and in the Resolution and the satisfactory completion of such commercially reasonable additional acts and reviews as the Agency may deem appropriate, the Agency will (A) adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) a sale-leaseback or lease-leaseback transaction, (ii) the acquisition, construction and equipping of the Facility, and (iii) the leasing of the Facility to the Company pursuant to the Lease (or Leaseback) Agreement, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company and (B) shall enter into a sale-leaseback or lease-leaseback transaction pursuant to the terms of the Act, as then in force, for the purpose of financing certain costs of the Facility.

2.02. (a) The Lease (or Leaseback) Agreement shall be for an approximately ten (10) year term and shall obligate the Company to make aggregate basic payments in the amount of \$750.00 as and when the same shall become due and payable. The Company shall be entitled to acquire from the Agency title to (or terminate the Agency's leasehold interest in) the Facility for an aggregate amount of \$1.00, plus such additional amounts as shall be prescribed in the Lease (or Leaseback) Agreement. Specifically, the Lease (or Leaseback) Agreement shall contain a provision that will allow the Company to terminate the Lease (or Leaseback) Agreement at any time upon written notice to the Agency and upon payment by the Company of all applicable fees, penalties and recapture of benefits, if applicable. The Lease (or Leaseback) Agreement shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and the Company.

(b) The Company intends to consolidate (or has consolidated) the Phase 3 Land with the Phase 2 Land, such that the resulting parcel will be one consolidated parcel measuring 8.329± acres in the aggregate and assigned tax account number 224.00-01-14.4. Notwithstanding the fact that the Phase 3 Facility is, or will be, situated on the same tax parcel as the Phase 2 Facility, the obligations of the Company

under the Phase 2 Leaseback Agreement are wholly separate from and in addition to the obligations of the Company under the Leaseback Agreement for the Phase 3 Facility.

2.03. That all services, costs and expenses of whatever nature incurred in connection with the construction, equipping, installation, replacement, rebuilding, restoration, repair, maintenance and operation of the Facility have been and will continue to be undertaken by the Company as agent for the Agency, regardless of whether such services, costs and expenses were undertaken and/or paid in the Company's own name or in the name of the Agency, and the Agency shall furnish to the Company an appropriate letter on Agency letterhead evidencing the authority of the Company to act as agent of the Agency.

2.04. That, in connection with any lease by the Agency to the Company that is, in turn, subleased or leased by the Company, it is the intent of all parties to the transactions that any sublease or lease is undertaken by the Company as agent for the Agency.

2.05. That, at the request of the Company, and subject to the agreement between the Agency and the Company, any future transfers of fee or leasehold interest of any portion of real property upon which the Facility is located and not owned by the Agency, are hereby authorized, such transfers to be from the Company to the Agency, and there shall be no need for any further official action on behalf of the Agency other than the execution of the appropriate documents evidencing such transfer.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency herein and in the Resolution and subject to the conditions set forth herein and in the Resolution, the Company agrees as follows:

3.01. The Company hereby accepts the appointment made by the Agency in the Resolution to be the true and lawful agent of the Agency to (i) construct, equip, repair and maintain the Facility and (ii) make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent of the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and the same validity as the Agency could do if acting on its own behalf, including the authority to delegate such Agency appointment, as described in the Resolution.

3.02. In the Application, the Company projected that it will create two (2) full time equivalent positions at the Facility as a result of undertaking the Project (the

"Employment Obligation"). The Company also made representations in its Application that it would construct and equip the Project as described in the Application, which is the basis for the Project Scoring Criteria and calculation of Financial Assistance. The Company acknowledges that the financial assistance granted by the Agency in connection with the Facility is conditioned upon the Company completing the Project as described in its Application and in the Project Scoring Criteria.

3.03. The Company will, to the extent deemed by it to be necessary or desirable, enter into a contract or contracts for the acquisition, construction and equipping of the Facility (including any necessary contracts for the acquisition of real property necessary or useful in said Facility).

3.04. Contemporaneously with the closing of the sale-leaseback or lease-leaseback transaction the Company will enter into the Lease (or Leaseback) Agreement with the Agency containing, among other things, the terms and conditions described in Section 2.02 hereof.

3.05. (a) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove (or bond the same if acceptable to the Agency and its counsel), any mechanics' or other liens against the Facility for labor or materials furnished in connection with the Company's acquisition, construction and equipping of the Facility. The Company shall forever defend, indemnify and hold the Agency, the Agency's members, officers, employees, and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, harmless from and against all costs, losses, expenses, claims, damages and liabilities of whatever kind or nature arising, directly or indirectly, out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the Company's acquisition, construction and equipping of the Facility or arising out of any contract or other arrangement therefor (and including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to this AGREEMENT or otherwise.

(b) The Company shall forever defend, indemnify and hold harmless the Agency, the Agency's members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, from and against all claims, causes of action, liabilities and expenses (including without limitation attorneys' fees) howsoever arising for loss or damage to property or any injury to or death of any person (including, without limitation, death of or injury to any employee of the Company or any sublessee) that may occur subsequent to the date hereof by any cause whatsoever in relation to the Facility including the failure to comply with the provisions of Article 3.05 hereof, or arising, directly or indirectly, out of the Company's ownership, construction, acquisition, operation, maintenance, repair or financing of the Facility, and including, without limitation, any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(c) The defense and indemnities provided for in this Article 3 shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, the Agency's members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable (collectively, the "Indemnified Parties"), and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by law and any instance of gross negligence or willful misconduct by any one or more of the Indemnified Parties. Without limiting the generality of the foregoing, the foregoing indemnifications shall apply to and encompass any action (or alleged failure to act) of the Agency pursuant to the SEQR Act.

(d) The Company shall provide and carry workers' compensation and disability insurance as required by law and comprehensive liability insurance with such coverages (including, without limitation, owner's protective for the benefit of the Agency and contractual coverage covering the indemnities herein provided for), with such limits and with such companies as may be approved by the Agency. Within ten (10) days' after receipt of written request of the Agency, the Company shall provide certificates of insurance in form satisfactory to the Agency evidencing such insurance.

3.06. With the exception of the authorizations required to be adopted by the Agency for the Agency to enter into the sale-leaseback or lease-leaseback transaction, the Company agrees that, as agent for the Agency or otherwise, the Company will comply with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or the Company with respect to the Facility, the acquisition, construction and equipping thereof, the operation and maintenance of the Facility and the financing thereof. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full; and upon the request of either party, this AGREEMENT shall be amended to specifically set forth any such provision or provisions. The Company certifies, under penalty of perjury, that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.

3.07. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.08. If it should be determined that any State or local sales or compensatory use taxes or similar taxes however denominated are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Project, or are in any manner otherwise payable directly or indirectly in connection with the Project, the Company shall pay the same and defend and



indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.09. In any year immediately following a year in which the Company claimed an exemption from sales and use tax as an agent of the Agency, the Company shall file with the New York State Department of Taxation and Finance an annual statement of the value of all sales and use tax exemptions claimed in connection with the Facility, in compliance with Section 874(8) of the New York State General Municipal Law. The Company shall provide the Agency with a copy of such annual statement at the time of filing with the State Department of Taxation and Finance. Based upon representations made by the Company in the Application, the value of the sales tax to be abated relating to the Project is estimated at \$648,925.00. The Company acknowledges that the financial assistance currently authorized by the Agency is currently limited to \$713,817.00 and the Agency is required by law to recapture any New York State sales tax exemptions claimed by the Company (a) that exceed \$100,000.00 for purchases made between August 20, 2021 and October 5, 2021, the date of the public hearing or (b) that exceed \$713,817.00 for purchases made relating to the Project in the aggregate.

3.10. If the Facility is leased to another party by the Agency and subleased to the Company, then in such event, the Company guarantees all of the covenants, undertakings and indemnities of such other party as set forth in this Article 3.

3.11. The Company shall provide annually, to the Agency, a certified statement and documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. Exhibit C contains the form of annual certification as well as additional Project assessment information that the Agency requires, on an annual basis, to be submitted to the Agency by the Company. If the Company does not provide said annual certified statement to the Agency by the stated due date, a \$500.00 late fee will be charged to the Company for each thirty (30) day period the report is late beyond the due date, up until the time the report is submitted.

3.12. In accordance with Section 875(3) of the General Municipal Law, the policies of the Agency, and the Resolution, the Company covenants and agrees that the Company may be subject to recapture of any and all Financial Assistance if it is determined by the Agency that:

(a) the Company or the Company's subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to any claimed sales and use tax exemption benefits; or

(b) the sales and use tax exemption benefits claimed by or on behalf of the Company are in excess of the amounts authorized by the Agency to be taken by the Company or the Company's subagents, if any; or

(c) the sales and use tax exemption benefits claimed by or on behalf of the Company are for property or services not authorized by the Agency as part of the Project; or

(d) the Company has knowingly made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for Financial Assistance; or

(e) the Company fails to meet and maintain, or cause to be met and maintained, the Employment Obligation or Project Obligation such that the Final Project Review returns a score less than 40 points; or

(f) the Company fails to submit to the Agency the Company's annual report so that the Agency can confirm that the Project is achieving the Employment Obligation or Project Obligation and other objectives of the Project.

If the Agency determines to recapture any Financial Assistance, the Company agrees and covenants that the Company will (i) cooperate with the Agency in the Agency's efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s), unless agreed to otherwise by any tax jurisdiction(s). The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine the New York State and local sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

Article 4. General Provisions.

4.01. This AGREEMENT sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; no Financial Assistance shall be provided to the Company prior to the effective date and execution of this Agreement. This AGREEMENT shall remain in effect until the Lease (or Leaseback) Agreement becomes effective. It is the intent of the Agency and the Company that this AGREEMENT be superseded in its entirety by the Lease (or Leaseback) Agreement,

except for the indemnities and guarantee of indemnities contained herein, which shall survive.

4.02. It is understood and agreed by the Agency and the Company that entering into the sale-leaseback or lease-leaseback transaction and the execution of the Lease (or Leaseback) Agreement and related documents are subject to (i) obtaining all necessary governmental approvals, (ii) approval of the members of the Company, (iii) approval of the members of the Agency, (iv) satisfactory completion of the environmental review of the Facility by the Agency in compliance with the State Environmental Quality Review Act, (v) agreement by the Agency and the Company upon mutually acceptable terms and conditions for the Lease (or Leaseback) Agreement and other documentation usual and customary to transactions of this nature, (vi) the condition that there are no changes in New York State Law which prohibit or limit the Agency from fulfilling its obligation and commitment as herein set forth to enter into the sale-leaseback or lease-leaseback transaction and (vii) payment by the Company of the Agency's transaction fee and the fees and disbursements of bond counsel or transaction counsel. The Agency's transaction fee is calculated based upon the size of the project; based upon the projections in the Company's Application, the transaction fee for this project is estimated at \$81,928.00, which will be payable in full at closing.

4.03. The Company agrees that the Company will reimburse the Agency for all reasonable and necessary direct out-of-pocket expenses that the Agency may incur as a consequence of executing this AGREEMENT or performing the Agency's obligations hereunder. Examples of such expenses include, but are not limited to, photocopies, phone and fax charges, postage and other shipping charges incurred in connection with closing the lease-leaseback transaction or complying with any requests after closing relating to the lease-leaseback transaction.

4.04. This AGREEMENT and the Financial Assistance contemplated by the Agency hereunder shall be valid for a period of twelve (12) months from the Inducement Date. If for any reason the lease-leaseback transaction does not close on or before twelve (12) months from the Inducement Date, the Company shall submit a written request to the Agency describing the reasons for the delay and requesting this AGREEMENT be extended for a period of twelve (12) months under the same terms and conditions contained herein. If the Company has made exempt purchases during the initial term of the AGREEMENT, the Company shall pay (a) to the Agency the first year's annual rent payment of \$750.00 at the time this AGREEMENT is extended and (b) to Agency and Transaction Counsel the out-of-pocket expenses and legal fees incurred in connection with the Project as of the extension date.

4.05. If for any reason the lease-leaseback transaction does not close on or before twelve (12) months from the Inducement Date and is not extended by written agreement of the parties, the provisions of this AGREEMENT (other than the provisions of Articles 3.05, 3.06, 3.07 and 3.08 above, which shall survive) shall terminate and be

of no further force or effect, and following such termination neither party shall have any rights against the other party except:

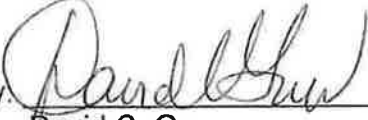
(a) The Company shall pay the Agency for all expenses which were authorized by the Company and incurred by the Agency in connection with the acquisition, construction and equipping of the Facility;

(b) The Company shall assume and be responsible for any contracts for construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project; and

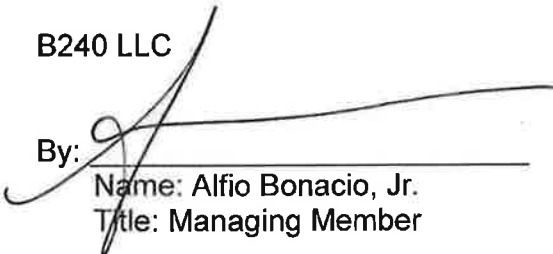
(c) The Company will pay the out-of-pocket expenses of the Agency, counsel for the Agency and Transaction Counsel incurred in connection with the Project and will pay the reasonable fees of counsel for the Agency and Transaction Counsel for legal services relating to the Project or the proposed financing thereof.

IN WITNESS WHEREOF, the parties hereto have entered into this AGREEMENT to be effective as of August 20, 2021.

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
David C. Grow  
Chairman

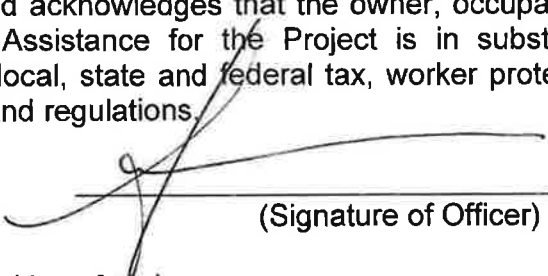
B240 LLC

By:   
Name: Alfio Bonacio, Jr.  
Title: Managing Member

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

Alfio Bonacio, Jr., being first duly sworn, deposes and says:

1. That I am the Managing Member of B240 LLC (the "Company") and that I am duly authorized on behalf of the Company to bind the Company and to execute this Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

  
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury  
this 18<sup>th</sup> day of October, 2021.

  
(Notary Public)

BRANDEE ARMER  
NOTARY PUBLIC-STATE OF NEW YORK  
NO.01AR6335030  
QUALIFIED IN SARATOGA COUNTY  
NY COMMISSION EXPIRES 12/28/2023

EXHIBIT A

PROJECT OBLIGATION – AGENCY SCORING CRITERIA

**Oneida County Industrial Development Agency Uniform Tax Exemption and Agency Benefits Policy Market Rate Rental Housing Development Initiatives (Effective March 1, 2015 and revised on April 20, 2018)**

**1. Criteria:**

OCIDA will entertain applications for assistance that fall within the following criteria, using the following 100 point scoring system for each application received:

**B240 LLC - Air City Lofts Phase 3 Scoring**

<b>Criteria</b>	<b>Description of Criteria</b>	<b>Possible Points</b>	<b>Score</b>
Adaptive Reuse Projects	Projects that propose a change in use to an existing building (e.g., reuse of vacant or underutilized facility) or propose development on a <b><u>vacant urban infill site<sup>2</sup> that is being repurposed or redeveloped for an eligible housing project.</u></b>	25	25
Eligible Area Locations	Projects located within <b><u>Eligible Areas</u></b> (see attached map) that have a minimum of 5 units in a renovation or conversion of a building and 24 units for new construction, except for urban infill development projects where the IDA will entertain applications for projects located on a vacant urban infill site that has less than 24 units of eligible housing. <b><u>100 Units</u></b>	20	20
Utilizes Existing Infrastructure	Projects that <b><u>utilize existing infrastructure</u></b> (i.e. utilizing both existing sewer and water services and do not require system expansion. Modernizations, such as replacing existing pipes where service is already provided, are viewed favorably).	20	20
Community Benefits	Projects that create other benefits that inure to the benefit of the community that may include: rebuilding community infrastructure, pays sewer credits, creates or contributes to a community amenity, dedicates land to a municipality for a public improvement which benefits health and safety, removes slums and blighting influences (e.g., demolition or supports in-fill development within a neighborhood, commercial corridor, downtown, or main street area), provides an environmental enhancement (e.g., flooding wetlands creation/restoration, is part of a Brownfield, utilizes federal/state historic tax credit programs, provides mixed income rental units to <b><u>support workforce housing</u></b> , or provides other benefits deemed important and relevant by OCIDA. <b><u>GBTP Workforce Housing</u></b>	5	5

<sup>2</sup> Urban infill site would include infill rental housing being constructed on vacant or underutilized property.

Green Projects	(1) Projects to be constructed on a New York State or federal defined Brownfield, such as a site designated as a federal or state <b><i>Superfund site</i></b> ; a participant in the State Voluntary Cleanup Program; a former, verified Manufacturing Gas Plant, or within a Brownfield Opportunity Area; or (2) Projects whose plans qualify for a LEED Certification from the US Green Building Council (final certification required prior to commencement of the PILOT Agreement); or (3) Projects that incorporate geothermal technologies that are projected to make a significant impact on the stability, reliability and resilience of the grid. The physical geothermal plant providing energy to the Project must be located within Oneida County, turned on and connected to the grid, the energy generated must provide at least fifty percent (50%) of the energy needs for the Project, and more than fifty percent (50%) of the energy generated must be used in Oneida County.	10	10  GBTP
Mixed Use Dev. Projects	Projects that are <b><i>mixed use</i></b> development with housing being at least –50% or more of a building’s total area and the project induces job growth (mixed use development project proposes direct job creation with non-residential uses). <b><i>To reach 20 points, must create at least 2 FTEs.</i></b>  <b>Project is not mixed use</b>	20	0
<b>Total Points:</b>		100	80

**2. Scoring of Housing Applications:**

OCIDA shall use this scoring system to determine the level of Agency benefits:

- Tier 1 Benefits: projects that score at least 60 points may receive abatement of real property taxes, exemptions from sales taxes and exemptions from mortgage recording taxes
- Tier 2 Benefits: projects that score between 50 to 59 points may receive abatement of real property taxes, exemptions from sales taxes and exemptions from mortgage recording taxes
- Tier 3 Benefits: projects that score 40 to 49 points may receive exemptions from sales taxes and exemptions from mortgage recording taxes (not eligible for abatement of real property taxes)

Term of PILOT Exemption Schedule	Tier 1 – PILOT Exemption Schedule	Tier 2 – PILOT Exemption Schedule
1	100%	75%
2	100%	75%
3	100%	75%
4	100%	75%
5	75%	50%
6	50%	25%
7	50%	
8	25%	
9	10%	
10	10%	

Applicants will pay 100% of all taxes due and owed until a Certificate of Occupancy is issued for a project, and then the first exemption year in the schedule will begin effective the first taxable status date after a Certificate of Occupancy is issued.



EXHIBIT B  
FORM OF PILOT AGREEMENT

Transcript Document No. [ ]

B240 LLC  
and  
ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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PAYMENT-IN-LIEU-OF-TAX AGREEMENT

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Oneida County Industrial Development Agency  
2021 Real Estate Lease  
(B240 LLC – Phase 3 Facility)

Oneida County, City of Rome, Rome City School District

Tax Account No.: [TO BE PROVIDED BY COMPANY]

## PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of December \_\_, 2021, is by and between **B240 LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with an address of 18 Division Street, Suite 401, Saratoga Springs, New York 12866 (the "Company") and **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, an industrial development agency and a public benefit corporation of the State of New York having its principal office at 584 Phoenix Drive, Rome, New York 13441 (the "Agency").

### W I T N E S S E T H:

WHEREAS, the Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 99 of the Consolidated Laws of New York, as amended, (the "Enabling Act"), and Chapter 372 of the Laws of 1970 of the State of New York, as amended, constituting Section 901 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of, among others, industrial facilities for the purpose of promoting, attracting and developing economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, the Company desires that the Agency assist in Phase 3 of a multi-phased mixed-use community, which Phase 3 consists of the acquisition of 1.67± acres of land located at 1371 Floyd Avenue, Griffiss Business and Technology Park, City of Rome, Oneida County, New York (the "Land"); construction on the Land of two, four-story buildings comprised of studio, one bedroom, and two bedroom apartments for a collective total of 100 market rate apartments, together with infrastructure to service the same (collectively, the "Improvements"); and acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of providing housing within the community for existing and future employees of the Griffiss Business and Technology Park and surrounding employers, and to enhance talent recruitment and economic development in the region (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" or the "Phase 3 Facility" and the construction and equipping of the Improvements is referred to as the "Project"); and

WHEREAS, \_\_\_\_\_ (the "Bank") has agreed to finance a portion of costs of the Project by making a loan to the Company in the principal sum of

\$18,217,000.00 to be secured by a Mortgage (the "Mortgage") from the Agency and the Company to the Bank; and

WHEREAS, Griffiss Local Development Corporation ("GLDC") owned fee title to the Land and leased the Land to the Agency, pursuant to a Lease Agreement dated as of July 1, 2014 as amended on August 31, 2016 (the "GLDC Lease"), and the Agency leased the Land back to GLDC for its development pursuant to a Leaseback Agreement dated as of July 1, 2014 as amended on August 31, 2016 (the "GLDC Leaseback"); and

WHEREAS, the Land has been exempt from real property taxes, general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company pursuant to the terms of a Payment-In-Lieu-of-Tax Agreement dated as of July 1, 2014 (the "GLDC PILOT"), because the Agency has a leasehold interest in the Land and the Land has been used for a purpose within the meaning of the applicable Constitutional and statutory provisions, including the Enabling Act, provided, however, such exemption does not extend to special assessments or ad valorem levies; and

WHEREAS, GLDC conveyed the Land to the Company on December \_\_, 2021, subject in all respects to the GLDC Lease, GLDC Leaseback and the GLDC PILOT Agreement; and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to maintain its leasehold interest in the Land, acquire a leasehold interest in the Improvements and Equipment, pursuant to a Lease Agreement dated of even date herewith between the Agency and the Company and lease the Facility back to the Company pursuant to the terms and conditions contained in a Leaseback Agreement dated of even date herewith; and

WHEREAS, upon the Agency acquiring a leasehold interest in the Facility from the Company, GLDC and the Agency shall release the Land from the GLDC Lease, GLDC Leaseback and GLDC PILOT Agreement; and

WHEREAS, the Company will further sublease individual residential units to residential tenants, to be identified from time to time (each a "Sublessee" and collectively, the "Sublessees"); and

WHEREAS, the Agency has agreed to maintain an interest in the Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Facility will continue to be exempt from real property taxes, general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company (the "Exempt Taxes"), because the Agency is maintaining its interest in the Facility and the Facility is used for a purpose within the meaning of the applicable Constitutional and statutory provisions, including the Enabling Act, provided, however, such exemption does not extend to special assessments or ad valorem levies; and

WHEREAS, Phase 1 consists of the acquisition of a 4.33± acre parcel of land located at 85 and 86 Hangar Road West, Griffiss Business and Technology Park, City of Rome, Oneida County, New York (the "Phase 1 Land"); construction on the Phase 1 Land of two, four-story mixed-use buildings comprised of 30,600± square feet of retail/commercial space on the first floor and 84 market rate residential one- and two-bedroom apartments on the second through fourth floors, together with sidewalks and infrastructure to service the same (collectively, the "Phase 1 Improvements"); and acquisition and installation of equipment in the Improvements (the "Phase 1 Equipment"), all for the purpose of providing housing and amenities within the community for existing employees of the Griffiss Business and Technology Park, and to enhance talent recruitment and economic development in the region (the Phase 1 Land, the Phase 1 Improvements and the Phase 1 Equipment are referred to collectively as the "Phase 1 Facility" and the construction and equipping of the Phase 1 Improvements is referred to as the "Phase 1 Project"); and

WHEREAS, the Company leases the Phase 1 Facility to the Agency pursuant to a Lease Agreement dated as of December 3, 2019 (the "Phase 1 Lease Agreement") and the Agency leases the Phase 1 Facility back to the Company for its operation pursuant to a Leaseback Agreement dated as of December 3, 2019 (the "Phase 1 Leaseback Agreement"); and

WHEREAS, the Agency and the Company entered into a Payment-In-Lieu-of-Tax Agreement dated as of December 3, 2019 (the "Phase 1 PILOT") making provision for payments-in-lieu-of-taxes and such assessments by the Company to the Taxing Authorities relating to the Phase 1 Facility; and

WHEREAS, Phase 2 consists of the acquisition of a 6.00± acre parcel of land located at 129 and 143 Air City Boulevard, Griffiss Business and Technology Park, City of Rome, Oneida County, New York (the "Phase 2 Land"); construction on the Phase 2 Land of two, four-story mixed-use buildings comprised of 26,000± square feet of retail/commercial space on the first floor and 72 market rate residential one- and two-

bedroom apartments on the second through fourth floors, together with sidewalks and infrastructure to service the same (collectively, the "Phase 2 Improvements"); and acquisition and installation of equipment in the Phase 2 Improvements (the "Phase 2 Equipment"), all for the purpose of providing housing and amenities within the community for existing employees of the Griffiss Business and Technology Park, and to enhance talent recruitment and economic development in the region (the Phase 2 Land, the Phase 2 Improvements and the Phase 2 Equipment are referred to collectively as the "Phase 2 Facility" and the construction and equipping of the Phase 2 Improvements is referred to as the "Phase 2 Project"); and

WHEREAS, the Company leases the Phase 2 Facility to the Agency pursuant to a Lease Agreement dated as of December 28, 2020 (the "Phase 2 Lease Agreement") and the Agency leases the Phase 2 Facility back to the Company for its operation pursuant to a Leaseback Agreement dated as of December 28, 2020 (the "Phase 2 Leaseback Agreement"); and

WHEREAS, the Agency and the Company entered into a Payment-In-Lieu-of-Tax Agreement dated as of December 28, 2020 (the "Phase 2 PILOT") making provision for payments-in-lieu-of-taxes and such assessments by the Company to the Taxing Authorities relating to the Phase 2 Facility; and

WHEREAS, the Company intends to consolidate (or has consolidated) the Phase 3 Land with the Phase 2 Land, such that the resulting parcel will be one consolidated parcel measuring 8.329± acres in the aggregate and assigned one tax account number; and

WHEREAS, notwithstanding the fact that the Phase 3 Facility is, or may be, situated on the same tax parcel as the Phase 2 Facility, the provisions for payments in lieu of taxes for the Phase 2 Facility are wholly separate from and in addition to the provisions for payments in lieu of taxes for the Phase 3 Facility; and

WHEREAS, the Company understands that it, as lessee of the Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of this Agreement in the form of PILOT Payments (defined below) from the first date of the Exemption Term (as that date is determined by the parties and described herein) commencing with the first taxable status date following the issuance of a Certificate of Occupancy through the term of the Leaseback Agreement (the "Exemption Term"); and

WHEREAS, each year of the Exemption Term is more particularly set forth on Schedule B attached hereto (each year being referred to as an "Exemption Year"), which is based on the anticipated Completion Date of the Facility and may be adjusted based on the actual Completion Date of the Facility; and

WHEREAS, it is the intention of the parties that the First Exemption Year shall begin on the January 1 following the issuance of a Certificate of Occupancy for the Project; the Exemption Years described on Schedule B assume a Certificate of Occupancy will be issued in 2022, and the parties agree that it may be necessary to amend the Exemption Years if the Certificate of Occupancy is not issued on the anticipated schedule; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provision for payments-in-lieu-of-taxes and such assessments by the Company to the City of Rome or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is or may be, wholly or partially located, Oneida County, the Rome City School District and appropriate special districts (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities") in which any part of the Facility is or is to be located; and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Leaseback Agreement.

NOW, THEREFORE, to provide for certain payments to the Taxing Authorities, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The Company shall pay to each Taxing Authority:

(a) no taxes or PILOT Payments with respect to the Facility prior to the Exemption Term; and

(b) all special assessments and ad valorem taxes coming due and payable during the term of the Lease Agreement and the Leaseback Agreement for which the Facility is not exempt, no later than the last day during which such payments may be made without penalty.

2. (a) The Company shall pay an amount in lieu of the Exempt Taxes (the "PILOT Payments") during each Exemption Year as follows:

Exemption Year 1	No Exempt Taxes
Exemption Year 2	No Exempt Taxes
Exemption Year 3	No Exempt Taxes
Exemption Year 4	No Exempt Taxes
Exemption Year 5	25% of Exempt Taxes

Exemption Year 6	50% of Exempt Taxes
Exemption Year 7	50% of Exempt Taxes
Exemption Year 8	75% of Exempt Taxes
Exemption Year 9	90% of Exempt Taxes
Exemption Year 10	90% of Exempt Taxes
Exemption Year 11 and thereafter	100% of Exempt Taxes

Anything herein to the contrary, notwithstanding, this Agreement and the Agency's leasehold interest in the Facility shall terminate on the date on which the Leaseback Agreement shall terminate. The benefits under this Agreement are subject to the terms and conditions of a certain Project Obligation and Recapture Agreement dated as of December \_\_, 2021.

(b) Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment when due hereunder and upon failure to cure such default within thirty (30) days after receipt of notice as herein provided, shall constitute an Event of Default under Section 7.1(a)(vi) of the Leaseback Agreement, and the Agency may take any one or all remedial steps afforded it in Section 7.2 of the Leaseback Agreement; provided, however, nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

3. The Company will make PILOT Payments to each Taxing Authority hereunder for each Exemption Year by making the required payment to such Taxing Authority no later than the last day during which such Exempt Taxes could otherwise be made without penalty as if the Agency did not have a leasehold or other interest in the Facility. PILOT Payments that are delinquent under this Agreement shall be subject to a late penalty of five percent (5%) of the amount due which shall be paid by the Company to the affected Taxing Authority at the time the PILOT Payment is paid. For each month, or part thereof, that the PILOT Payment is delinquent beyond the first month, interest shall accrue to and be paid to the affected Taxing Authority on the total amount due plus a late payment penalty in the amount of one percent (1%) per month until the payment is made. Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment (or causing any payment to be made) when due hereunder and upon failure to cure such default within thirty (30) days after receipt of notice as herein provided, the Agency shall have the right to terminate the Leaseback Agreement and this PILOT Agreement, and the Company shall henceforth pay one hundred (100%) percent of the Exempt Taxes, together with all costs of collection, including but not limited to attorneys' fees. Nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

4. The PILOT Payments to be made by the Company pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid on the Facility leased to the Company by the Leaseback Agreement if the Agency did not have a leasehold or other interest in the Facility.

5. If by reason of a change in the Constitution or laws of the State of New York, or an interpretation of the Constitution or the laws of the State of New York by the Court of Appeals (or such lower court from which the time to appeal has expired) of the State of New York, or for any other reason, the Company is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company may deduct the aggregate of any such payments made by it from the amount herein agreed to be paid in lieu of such taxes and need only pay the difference. Furthermore, inasmuch as the PILOT Payments herein agreed to be made by the Company are intended to be in lieu of all Exempt Taxes, it is agreed that said payments shall not, as to any Exemption Year, be in an amount greater than would be payable for such year for such Exempt Taxes, in the aggregate, by a private corporation on account of its ownership of the Facility.

6. This Agreement shall be binding upon the successors and assigns of the parties.

7. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment or service charge because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility with respect to any proposed assessment or change in assessment concerning the property, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard by such assessor, board of assessment review, court of law or otherwise and will 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 taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's interest in the Facility, the Company does not have the right to bring a proceeding to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding at the sole cost and expense of the Company.



Notwithstanding anything herein to the contrary, for so long as this Agreement is in effect, the Company hereby unconditionally and irrevocably waives its right, if any, to apply for and/or receive the benefit of any other real property tax exemption with respect to the Facility, including, without limitation, any real property tax exemption that may be available under Sections 485-a, 485-b and 485-e of the Real Property Tax Law.

8. All amounts payable by the Company hereunder will be paid to the respective Taxing Authority and will be payable in such lawful money of the United States of America as at the time of payment is legal tender for the payment of public and private debts, including a check payable in such money.

9. (a) If any term or provision hereof should be for any reason held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such term or provision will be deemed separate and independent and the remainder hereof will remain in full force and effect and will not be invalidated, impaired or otherwise affected by such holding or adjudication.

(b) This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

(c) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (i) mailed by United States registered or certified mail, postage prepaid, return receipt requested or (ii) when delivered by a commercial overnight courier that guarantees next day delivery and provides a receipt, to the Agency, the Bank or the Company, as the case may be, addressed as follows:

To the Agency: Oneida County Industrial Development Agency  
584 Phoenix Drive  
Rome, New York 13441-4105  
Attn.: Chairman

With a Copy To: Bond, Schoeneck & King, PLLC  
501 Main Street  
Utica, New York 13501  
Attn.: Linda E. Romano, Esq.

To the Company: B240 LLC  
18 Division Street, Suite 401  
Saratoga Springs, New York 12866  
Attn.: Alfio Bonacio, Jr., Managing Member

With a Copy To: **Barclay Damon LLP**  
2000 Five Star Bank Plaza  
100 Chestnut Street  
Rochester, New York 14604  
Attention: Steven J. Tranelli, Esq.

To the Bank:

With a Copy to:

provided, that the Agency, the Bank or the Company may, by notice given hereunder to the other, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this **PILOT Agreement** as of the date first above written.

B240 LLC

By: \_\_\_\_\_  
Alfio Bonacio, Jr.  
Managing Member

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

On the \_\_\_\_ day of December 2021 before me, the undersigned a notary public in and for said state, personally appeared **Alfio Bonacio, Jr.**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

SECOND SIGNATURE PAGE TO  
PILOT AGREEMENT BETWEEN B240 LLC AND  
ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
David C. Grow  
Chairman

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

On the \_\_\_ day of December 2021 before me, the undersigned a notary public in and for said state, personally appeared **David C. Grow**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**SCHEDULE A**

**COUNTY OF ONEIDA**

Receiver of Taxes  
800 Park Avenue  
Utica, New York 13501

**CITY OF ROME**

Receiver of Taxes  
Rome City Hall  
198 North Washington Street  
Rome, New York 13440  
Attn.: City Treasurer

**ROME CITY SCHOOL DISTRICT**

409 Bell Street  
Rome, New York 13440  
Attn.: David Dreidel, District Treasurer

**SCHEDULE B**

**EXEMPTION YEARS**

ASSUMING CERTIFICATE OF OCCUPANCY IS ISSUED ON OR BEFORE DECEMBER 2021,  
TO BE ADJUSTED BASED ON ACTUAL COMPLETION DATE

<b>Exemption Year</b>	<b>County/City Taxes</b>	<b>School Taxes</b>
Year One	01/01/2023 – 12/31/2023	07/01/2023 – 06/30/2024
Year Two	01/01/2024 – 12/31/2024	07/01/2024 – 06/30/2025
Year Three	01/01/2025 – 12/31/2025	07/01/2025 – 06/30/2026
Year Four	01/01/2026 – 12/31/2026	07/01/2026 – 06/30/2027
Year Five	01/01/2027 – 12/31/2027	07/01/2027 – 06/30/2028
Year Six	01/01/2028 – 12/31/2028	07/01/2028 – 06/30/2029
Year Seven	01/01/2029 – 12/31/2029	07/01/2029 – 06/30/2030
Year Eight	01/01/2030 – 12/31/2030	07/01/2030 – 06/30/2031
Year Nine	01/01/2031 – 12/31/2031	07/01/2031 – 06/30/2032
Year Ten	01/01/2032 – 12/31/2032	07/01/2032 – 06/30/2033

EXHIBIT C  
FORM OF ANNUAL REPORT TO AGENCY

**20XX Schedule of Supplemental Information (Bonds/Notes or Straight Lease)**

Project Address: XXXXXXXX

Total Project Amount: \$XXXXXX Approval Date: XXXXXXXX Date IDA took leasehold interest: XXXXXXXX  
 Benefited Project Amount: \$XXXXXXXXXX Bond Amount: XXXXXXXX Year Financial Assist Planned to end: XXXXX Non-profit? X

Please check box if applicable:  
 Not all data is reported. Letter of explanation attached.

**Was your project completed in 20XX?**  
 YES  NO

**If YES, what was the final project cost total?**  
 \$ \_\_\_\_\_

**20XX Exemptions – Amounts that would have been payable, AS FULL TAXES, without IDA Assistance**

Sales Tax (ST)	Real Property Taxes (RPT)	Mortgage Recording Tax (MR)	Total Tax Exemptions (Sum of ST, RPT and MRT)
State: \$	County: \$	\$	\$
Local: \$	Local (sum of city/town/village): \$		
	School: \$		

**Please attach copies of all PILOT Bills**

**20XX Payments in Lieu of Taxes (PILOTS) PAID. DO NOT INCLUDE SPECIAL DISTRICT ASSESSMENT PAYMENTS (ie: sewer, water, lighting, etc. districts)**

County PILOT	School District PILOT	Total PILOTS Paid
Local PILOT (sum of city/town/village) \$	\$	\$

Straight Lease: Identify method of financial assistance utilized by project, other than tax exemptions claimed by project. Identify by amount and type:

\_\_\_\_\_

**FORM CONTINUED ON NEXT PAGE**



**Full-Time Equivalent (FTE) Jobs Created and Retained – As of December 31, 20XX (see instructions for more information)**

# FTE Employees at Project Location Prior to IDA Status	Original Estimate of Jobs to be Created	Original Estimate of Jobs to be Retained	# Current FTE Employees	# FTE Jobs Created During Fiscal Year	# FTE Jobs Retained During Fiscal Year	# FTE Construction Jobs Created during Fiscal Year
X	X	X				

**FOR PROJECTS CLOSED WITH THE AGENCY AFTER JULY 2016 ONLY.**

If the salary and benefit information for categories of jobs retained and jobs created that was provided in the original project application is still accurate, please check this box:  If the information is no longer accurate complete chart below.

**Salary and Fringe Benefits for Jobs to be Retained and Created**

Category of Jobs to be Retained and Created	# CURRENT FTE Per Category	Average Annual Salary or Range of Salary	Average Annual Fringe Benefits or Range of Fringe Benefits
Management			
Administrative			
Production			
Independent Contractor			
Other			

**Contact Information (if different from page 1)**

NAME: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 \*Person Completing Form: \_\_\_\_\_  
 Required\* \_\_\_\_\_

I certify that to the best of my knowledge and belief all of the information on Pages 1 through 4 of this Annual Report is correct. I also understand that failure to report completely and accurately may result in enforcement of provisions of my agreement, including but not limited to avoidance of the agreement and potential claw back of benefits.

Signed\*: \_\_\_\_\_  
 (authorized company representative)  
 Print Name: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Questions for Bond Projects ONLY**

**Bonds and Notes Related to Project\***

(\*If you do not have a Bond, please skip this section)

Type of Debt:	Bond(s) Note(s)	Bond(s) Note(s)	Bond(s) Note(s)	Bond(s) Note(s)	Total
Date of Bond Issue:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Interest Rate:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
• At issuance					
• If variable, applicable range					
Outstanding Bond Balance at January 1, 20XX:					
Amount of any Bond Issued in 20XX					
Paid on Bond During Fiscal Year:					
Outstanding Bond Balance at December 31, 20XX:					
Final Bond Maturity Date:					Final maturity date of last outstanding bond:

**Questions for Housing Projects ONLY - (Please provide additional information if needed to provide adequate detail)**

(1) Describe the housing project constructed or renovated in detail (type of housing, number of units, etc.):

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If construction or renovation is incomplete, when is the issuance of a Certificate of Occupancy anticipated? \_\_\_\_\_  
If complete, please attach copy of Certificate of Occupancy.

(2) Describe how you changed the pre-Project use of the facility or property being utilized, for the Project.

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(3) Did the project have any impact on the existing infrastructure or upgrades to the current infrastructure (water, sewer, electrical, gas, etc.)? If yes please provide detail and who you are working with at the applicable organization(s).

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(4) If your project is a multi-use facility please provide details of the project, project square footage breakdown of non-housing to housing usage: detail the job creation and retention associated with the non-housing component.

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(5) Does the project provide a community benefit? If yes, provide detail substantiating the community benefit (reference the IDA policy).

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## Instructions for 20XX OCIDA Annual Report

This mailing contains the following:

- Schedule of Supplemental Information (Pages 1 & 2)
- Bonds and Notes Related to Project (Page 3)- If applicable
- Housing Projects (Page 4) – If applicable

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### Schedule of Supplemental Information (Pages 1 & 2)

**Page 1:** In the first box, answer whether or not your project was completed in 2019. If it was completed before 20XX, you do not need to answer this question.

#### Tax Exemptions Section

- State and Local Sales Tax Column – ENTER STATE AND LOCAL SALES TAX THAT WOULD HAVE BEEN PAYABLE DURING 2019 IF THERE WAS NO IDA TAX EXEMPTION. Only report sales tax dollars exempted during 20XX. Local and NYS sales tax exempted must be broken out separately. Please provide copy of NYS ST-340 submitted to NYS for 20XX.
- Real Property Tax Column – ENTER REAL PROPERTY TAX PAYMENTS THAT WOULD HAVE BEEN PAYABLE DURING 2019 IF THERE WAS NO IDA PILOT. Do not include Special District Assessment Tax Bill information, as special district taxes are not exempt through the OCIDA PILOT. (ie: sewer, water, lighting districts, etc.)
- Mortgage Recording Tax Column – ENTER MORTGAGE RECORDING TAX THAT WOULD HAVE BEEN PAYABLE DURING 2019 IF THERE WAS NO IDA TAX EXEMPTION.
- Total Exemptions – Add up all of the numbers in the three previous columns (sales tax, real property tax, mortgage recording) and enter the sum.

#### Actual Payments in Lieu of Taxes (PILOT) PAID Section

- ENTER THE ACTUAL PILOT PAYMENTS PAID TO THE TAXING JURISDICTIONS. Do not include Special District Assessment Tax payments (sewer and water, lighting districts, etc.) in your paid amounts. DO PROVIDE US WITH COPIES OF THE ACTUAL INVOICES YOU PAID FROM.
- TOTAL PILOTS PAID Column – Add the three previous columns together and enter sum here for your total PILOT payments made during 20XX.

#### *Example:*

If full County of Oneida taxes WITHOUT a PILOT would have equaled \$1,000. You would enter \$1,000 in the Real Property Tax column in the Exemptions Section. However, because you have a PILOT, you might only pay 1/3 of your taxes due (\$333). Thus, you would enter \$333 in the County column in the Payments in Lieu of Taxes (PILOTS).

Continued on next page

**Page 2: # Current Full-Time Equivalent (FTE) Employees”/“# FTE Jobs Created/ # FTE Jobs Retained AS OF THE PERIOD ENDING DECEMBER 31, 20XX.**

“FTE” shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the Company

If any **Construction Jobs** were created during 20XX as a result of your project, include in the # FTE Construction Jobs Created column.

**For Projects that Closed with the IDA After July 2016 - Salary & Fringe Benefits Section:**

Read the sentence in bold print beneath the Job Reporting chart and determine whether or not you are able to check the box. Fill out chart if you cannot check the box.

**Page 3: For Bond Projects Only:** Complete *Bonds and Notes Related to Project* for each bond. If your company has multiple bonds, use as many copies of Page 3 as you need, however report all job numbers on Page 1.

- Multiple bonds may be reported on one sheet, or several sheets may be used. However, please report all job numbers on only one *Schedule of Supplemental Information*(Page 1)
- Date of Issue – date bond was issued for your project
- Interest Rate – self explanatory
- Outstanding Beginning of Fiscal Year – Bond balance as of January 1, 20XX
- Bonds Issued During Fiscal Year – if this is your first reporting year for the bond enter the new bond amount here. If additional IDA bonds were added by your company in 2019 enter the new issues here.
- Amount Paid on Bonds During Fiscal Year –self explanatory
- Outstanding Bond Balance at December 31, 20XX
- Final Maturity Date – this should be filled in for you, if not please enter date your bond matures. If it was paid off in 20XX enter that date and indicate such.

**Page 4:** For Housing Projects Only – Instructions contained therein.

**REPORT CERTIFICATION – Bottom of Page 2**

Review and update the Contact Information questions at the bottom of Page 2, then sign to certify the information provided.

If you have any questions, please do not hesitate to call Mark Kaucher, Jennifer Waters or Shawna Papale at 315-338-0393 or e-mail us at:

[mkaucher@mvedge.org](mailto:mkaucher@mvedge.org)   [jwaters@mvedge.org](mailto:jwaters@mvedge.org)   [spapale@mvedge.org](mailto:spapale@mvedge.org)

**Thank you!**