

**ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**AND**

**COR VAN RENSSELAER COMPANY III, INC.  
COR VAN RENSSELAER STREET COMPANY II, LLC**

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**PROJECT PAYMENT IN LIEU OF TAX AGREEMENT**

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**DATED AS OF APRIL 22, 2016**

**CITY OF SYRACUSE  
TAX MAP PARCELS 117.-01-01.5, 107.-12.01.3**

## **PROJECT PAYMENT IN LIEU OF TAX AGREEMENT**

THIS PROJECT PAYMENT IN LIEU OF TAX AGREEMENT (the "Agreement") dated as of April 22, 2016 by and between **ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a New York public benefit corporation, having its office at 333 W. Washington Street, Syracuse, New York 13202 (the "Agency") and **COR VAN RENSSELAER COMPANY III, INC., and COR VAN RENSSELAER STREET COMPANY II, LLC**, both New York limited liability companies having an address of 540 Towne Drive, Fayetteville, New York 13066 (collectively the "Companies").

### **WITNESSETH:**

**WHEREAS**, Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

**WHEREAS**, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any buildings or other improvements, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the People of the State of New York and to improve their standard of living; and

**WHEREAS**, the Enabling Act further authorizes each such agency to lease or sell any or all of its properties, to mortgage and pledge any or all of its properties, whether then owned or thereafter acquired, and to pledge the revenues and receipts from the lease or sale thereof; and

**WHEREAS**, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 435 of the Laws of 1970 of the State of New York (collectively with the Enabling Act, the "Act"), and is empowered under the Act to undertake the Project (as hereinafter defined); and

**WHEREAS**, by application to the Agency dated November 5, 2015, the Companies requested the Agency's assistance in a project (the "Project"), to be completed as one or more Projects (the "Projects"), consisting of the following: (A) (1) the acquisition of a ownership and/or contractual, or controlling interest in certain land located in the City of Syracuse, Onondaga County, New York, as generally shown on Exhibit A-2 attached hereto (the "Land"); (2) the construction of multiple structures and the renovation, rehabilitation and relocation of existing structures (the "Improvements") on the Land; and (3) the acquisition and installation in the Improvements of certain machinery and equipment (the "Equipment") (the Land, Improvements and the Equipment are collectively referred to in each instance as a

"Project Facility"); (B) the establishment and execution of a Master Payment In Lieu of Tax Agreement (the "Master PILOT Agreement") and Project Payment In Lieu of Tax Agreements, substantially in the form of this Agreement (the "Project PILOT Agreements") and collectively referred to in this Agreement as the "PILOT Agreements" and the filing of an RPTL Section 412A exemption form; and (C) the granting of certain other financial assistance (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemptions from sales and use taxes and mortgage recording taxes (the "Financial Assistance"); and

**WHEREAS**, on December 15, 2015 the members of the Agency adopted a resolution (the "Inducement Resolution") whereby the Agency agreed, subject to numerous conditions, to undertake the Project; and

**WHEREAS**, prior to the adoption of the Inducement Resolution, in compliance with the provisions of Section 859-a of the Act, the Assistant Secretary to the Agency (A) caused notice of a public hearing (the "Public Hearing") of the Agency to hear all persons interested in the Project and the PILOT Agreement being contemplated by the Agency with respect to the Project to be mailed on November 12, , 2015 to the chief executive officer of the county and of each city, school district in which the Project is to be located, (B) caused notice of the Public Hearing published on November 15, 2015 in *The Post-Standard*, a newspaper of general circulation available to the residents of the City of Syracuse, (C) conducted the Public Hearing on December 1, 2015 at the 333 W. Washington Street, Syracuse, Onondaga County, New York and (D) prepared a report of the Public Hearing which fairly summarized the views presented at the Public Hearing and distributed same to the members of the Agency; and

**WHEREAS**, pursuant to Article 8 of the Environmental Conservation law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, "SEQRA"), the Agency adopted a resolution (the "Environmental Resolution") on December 15, 2015 by which the Agency determined that the Project will not have a significant impact on the environment; and

**WHEREAS**, in the Inducement Resolution, the Agency determined to grant the PILOT Agreements and to enter into a Master Lease and Leaseback Agreement dated December 17, 2015 (the "Master Lease Agreement") which contemplates the creation of Subprojects, Project Leases for each Subproject (the "Subproject Lease Agreements") and collectively referred to in this Agreement as the "Lease Agreements" and certain other documents related thereto and to the Project (together with the PILOT Agreements and the Lease Agreements, the "Basic Documents"); and

**WHEREAS**, pursuant to the terms of the Master Lease Agreement and in conjunction with the development of the Project and Projects, that are to be developed on real property now owned by the Companies and hereafter acquired real property, (A) the Companies have agreed (1) to cause the Project to be undertaken and completed as one or more Projects, (2) as agent of the Agency, to undertake and complete the Project as one or more Projects, (3) to lease the Project Facility and each Subproject from the Agency (with an obligation to purchase the Project Facility and each Subproject from the Agency), and (4) to make certain rent payments to the

Agency; and (B) the Agency agreed to (1) undertake the Project as one or more Projects, (2) appoint the Companies as agent of the Agency to undertake and complete the Project as one or more Projects, and (3) lease the Project Facility to the Companies (with an obligation to sell the Project Facility to the Companies); and

**WHEREAS**, under the current provisions of the Act and Section 412-a of the Real Property Tax Law of the State of New York (the "Real Property Tax Law"), the Agency is required to pay no taxes upon any of the property acquired by it or under its jurisdiction or supervision or control; and

**WHEREAS**, the Companies have provided a Subproject Notice dated February 4, 2016 to the Agency pursuant to the terms of the Master Lease Agreement notifying the Agency that COR VAN RENSSELAER COMPANY III, INC. and COR VAN RENSSELAER STREET COMPANY II, LLC (the "Company") is prepared to develop a Subproject, consisting of two (2) Four Story Buildings each consisting of approximately 22,600 square feet of retail space on the first floor and 54 apartment units on the second, third and fourth floors along with associated parking, and (A) the Companies will agree (1) to cause the Subproject to be undertaken and completed, (2) as agent of the Agency, to undertake and complete each Subproject, (3) to lease the Subproject from the Agency, and (4) to make certain payments to the Agency as rent for the Subproject and by resolution dated February 9, 2016 (B) the Agency will agree to (1) undertake the Subproject, (2) appoint the Companies as agent of the Agency to undertake and complete the Subproject, and (3) lease and sell the Agency's interest in the Subproject to the Companies; and

**WHEREAS**, all things necessary to constitute this Project PILOT Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Project PILOT Agreement have, in all respects, been duly authorized by the Agency and the Companies;

**NOW, THEREFORE**, in consideration of the matters above recited, the parties hereto formally covenant, agree, and bind themselves as follows:

## **ARTICLE I REPRESENTATIONS AND WARRANTIES**

**SECTION 1.1. REPRESENTATIONS OF AND WARRANTIES BY THE COMPANIES.** The Companies do hereby represent, warrant and covenant as follows:

(A) Power. The Companies are limited liability companies duly organized and validly existing under the laws of the State of New York, duly authorized to do business in the State of New York, and have the power under the laws of the State of New York to enter into this Project PILOT Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Project PILOT Agreement, and by proper action of members or managers had been duly authorized to execute, deliver and perform this Project PILOT Agreement.

(B) Authorization. The Companies are authorized and have the power under its operating agreement and the laws of the State of New York to enter into this Project PILOT Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Project PILOT Agreement. By proper action of its members, the Companies have duly authorized the execution, delivery and performance of this Project PILOT Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Companies are not prohibited from entering into this Project PILOT Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Project PILOT Agreement by (and the execution, delivery and performance of this Project PILOT Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Project PILOT Agreement will not conflict with or violate or constitute a breach of or a default under) the terms, conditions or provisions of its operating agreement, or any other restriction, law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Companies are a party or by which the Companies or any of its property is bound, and neither the Companies' entering into this Project PILOT Agreement nor the Companies' discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Project PILOT Agreement will be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Companies under the terms of any of the foregoing, and this Project PILOT Agreement is the legal, valid and binding obligation of the Companies enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(D) Governmental Consents. Except for the consents required by the Agency to enter into this agreement, no consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Companies is required as a condition to the execution, delivery or performance of this Project PILOT Agreement by the Companies or as a condition to the validity of this Project PILOT Agreement.

SECTION 1.2. REPRESENTATIONS OF AND WARRANTIES BY THE AGENCY. The Agency does hereby represent, warrant and covenant as follows:

(A) Power. The Agency is a public benefit corporation of the State of New York, has been duly established under the provisions of the Act, as validly existing under the provisions of the Act and has the power under the laws of the State of New York to enter into the transactions contemplated by this Project PILOT Agreement and to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Project PILOT Agreement hereunder.

(B) Authorization. The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State of New York to enter into this Project PILOT Agreement and the transactions contemplated hereby and to perform and carry out all of the covenants and obligations on its part to be performed under and pursuant to this Project PILOT Agreement. By proper corporate action on the part of its members, the Agency has duly authorized the execution, delivery and performance of this Project PILOT Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Agency is not prohibited from entering into this Project PILOT Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Project PILOT Agreement by the terms, conditions or provisions of any order, judgment, decree, law, ordinance, rule or regulation of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound.

(D) Governmental Consents. If required, the Agency has secured the consent and approval of the Affected Taxing Jurisdictions to the terms and conditions of the Project PILOT Agreement.

## ARTICLE II COVENANTS AND AGREEMENTS

### SECTION 2.1. TAX-EXEMPT STATUS OF THE FACILITY.

(A) Assessment of the Facility. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, the parties hereto understand that, upon acquisition of an ownership, or leasehold interest ("Interest") in the Subproject Facility by the Agency and the filing by the Agency of a New York State Board of Real Property Services Form RP-412-a (a "Real Property Tax Exemption Form") with respect to the Subproject Facility, and for so long thereafter as the Agency shall have an Interest in the subproject Facility, the Subproject Facility shall be assessed by the various taxing entities having jurisdiction over the Subproject Facility, including, without limitation, any county, city, school district, town, village or other political unit or units wherein the Subproject Facility is located (the aforementioned Affected Taxing Jurisdictions) as exempt upon the assessment rolls of the respective Affected Taxing Jurisdictions prepared subsequent to the acquisition by the Agency of an Interest in the Subproject Facility and the filing of the Real Property Tax Exemption Forms. The Agency shall take such action as may be necessary to ensure that the Facility shall be assessed as exempt upon the assessment rolls of the respective Affected Taxing Jurisdictions prepared subsequent to such acquisition by the Agency, including ensuring that a Real Property Tax Exemption Form shall be filed with the appropriate officer or officers of each respective Affected Taxing Jurisdiction responsible for assessing properties on behalf of each such Affected Taxing Jurisdiction (each such officer being hereinafter referred to as an "Assessor"). For so long thereafter as the Agency shall have an Interest in the Subproject Facility, the Agency shall take such further action as may be necessary to maintain such exempt

assessment with respect to each Affected Taxing Jurisdiction. The parties hereto understand that the Subproject Facility shall not be entitled to such tax-exempt status on the tax rolls of any Affected Taxing Jurisdiction until the earlier of the date that the Agency (i) has an Interest in the Subproject Facility, or (ii) January 1, 2017. Pursuant to the provisions of the Project Lease Agreement, the Companies will be required to pay all taxes and assessments lawfully levied and/or assessed against the Subproject Facility, including taxes and assessments levied for the current tax year and all subsequent tax years until the Subproject Facility shall be entitled to exempt status on the tax rolls of the respective Affected Taxing Jurisdictions. The Agency will cooperate with the Companies to obtain and preserve the tax-exempt status of the Subproject Facility. Pursuant to Section 858(15) of the Act, the Agency agrees to give each Affected Taxing Jurisdiction a copy of this Project PILOT Agreement within fifteen (15) days of the execution and delivery thereof, together with a request that a copy hereof be given to the appropriate officer or officers of the respective Affected Taxing Jurisdiction responsible for preparing the tax rolls for said Tax Entities (each, a "Tax Billing Officer").

(B) Special Assessment Obligations. The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the Act and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies (collectively "Special Assessment Obligations"); therefore any amounts due on such Special Assessment Obligations are the responsibility of the Companies. In the event that the Special Assessment Obligations relating to Subproject exceed by more than one hundred and ten percent (110%), the Special Assessment Obligations charged to property owners in such districts in 2016, the amount payable under Section 2.2 of this Project PILOT Agreement shall be reduced by the difference between the Special Assessment Obligations payable in 2016 as determined by the Assessment Office of the City of Syracuse and the Special Assessment Obligations payable during subsequent tax year(s). In addition, in the event that the property currently or hereafter included within the Project Facilities set forth in the Project PILOT Agreement are included within any new special assessment district or districts, or the extension of any existing special assessment districts ("New or Expanded Districts"), the amount payable by the Companies under Section 2.2 hereof and of each Subproject PILOT(s) shall be reduced by the amount payable as Special Assessment Obligations as a result of the inclusion of such Subproject Facilities within any New or Expanded Districts. The Companies shall submit proof of payment of any such payments to the Agency and the Agency shall reduce the next due payments under the Project PILOT by the amount calculated herein.

(C) Miscellaneous Obligations. The parties hereto understand that to the extent that the City of Syracuse Industrial Development Agency ("SIDA") defaults in its obligation to reimburse the Companies for costs incurred to complete Public Infrastructure Improvements under the SIDA Agreement between the parties dated June 1, 2015, or is unable to reimburse the Companies for costs incurred in constructing such Public Infrastructure Improvements as a result of the lack of Lakefront Funds being available as set forth in Section 1.(e) of the SIDA Agreement, the Companies shall notify the Agency of the amounts not paid which shall be deducted from Project PILOT amounts payable under Section 2.2 of this Project PILOT Agreement, until the amount owed to the Companies is paid in full.

## SECTION 2.2. PAYMENTS IN LIEU OF TAXES.

(A) Agreement to Make Payments and the Creation of Project PILOT Agreements. Commencing on the Effective Date (as defined in Section 5.1), the Companies agree that it shall make annual payments in lieu of property taxes, in the amounts hereinafter provided, to the Agency pursuant to the provisions hereof (the "Project PILOT Payment").

(B) Valuation of the Project Facilities.

(1) All parcels of Land shall be valued in accordance with the schedule of values set forth on the Fair Market Land Valuation Table attached hereto as Exhibit A.

(2) The valuation of each Subproject for purposes of calculating the annual Project PILOT payment shall be determined based upon the number of units contained within each Subproject as defined in the Subproject Notice multiplied by the value per unit of uses set forth on the Fair Market Usage Valuation Table attached hereto as Exhibit B.

(C) Total Amount of Payments in Lieu of Taxes.

The payments in lieu of taxes to be paid by the Companies to the Agency pursuant to the terms of this Project PILOT Agreement shall be computed as follows:

(1) The calculation of the payment due under this Project PILOT for that portion of the Land contained therein shall be calculated as follows: first, determine the value for that portion of the Land which is contained within the Project referred to in the Fair Market Land Valuation Table, second multiply (a) the Fair Market Value of the Land determined pursuant to Subsection (B)(1) of this Section 2.2, by (b) the then current New York State equalization rate for the City of Syracuse (as established by the New York State Office of Real Property Services or its equivalent), provided that in no event shall the equalization rate utilized be greater than 83% by (c) the tax rate or rates of such taxing jurisdiction that would be applicable to the Land if the Land was owned by the Companies and not the Agency.

(3) The calculation of the payment due under each Project PILOT for the Project improvements constructed on the portion of the Land contained therein shall be calculated as follows: multiply (a) the Fair Market Use Value of the Improvements determined pursuant to Subsection (B)(2) of this Section 2.2 based upon the number of unit(s) per use classification, by (b) the then current New York State equalization rate (as established by the New York State Office of Real Property Services or its equivalent), provided that in no event shall the equalization rate utilized be greater than 83%, and (c) the tax rate or rates of such Taxing Entity that would be applicable to the Improvements if the Improvements were owned by the Companies and not the Agency and then multiplying by the exemption schedule set forth on Exhibit C attached hereto.

(4) In each tax year during the term of this Project PILOT Agreement, commencing on the first tax year following the date on which the Improvements shall be assessed as exempt



on the assessment roll of any Taxing Entity, the amount payable by the Companies to the Agency on behalf of each taxing jurisdiction as a payment in lieu of property tax pursuant to this Project PILOT Agreement with respect to the Improvements shall be calculated in accordance with Section 2.2(C)(1). There shall be no payments due under any Project PILOT agreement prior to the year that a final and unconditional certificate of occupancy (or similar equivalent) is issued for the Project other than the payments made pursuant to (C)(1) above on the value of the Land prior to the construction of Improvements.

(D) Statements. The Agency agrees to give the Companies annual statements of the amounts due under this Agreement for Subproject Facilities no later than January 1 of each year.

(E) Time of Payments. The Companies agree to pay the amounts due under 2.2(B)(i) to the Agency within the period that each Affected Taxing Jurisdiction allows payment of taxes levied in such fiscal year without penalty. The Companies agree to pay the amounts under 2.2(B)(i) and (ii) and 2.2(E) on, or before January 31<sup>st</sup> of each year commencing in the year following the date of the issuance of a certificate of occupancy for the Subproject. The Companies shall be entitled to receive receipts for such payments.

(F) Method of Payment. All payments by the Companies hereunder shall be paid to the Agency in lawful money of the United States of America. The Agency shall in turn distribute the amounts so paid pursuant to the provisions of 2.2(c).

(G) Challenge of Assessments. The Companies reserve the right to seek amendments to this Project PILOT based on changes in use, circumstances or any other matter that might warrant an amendment of this Project PILOT. The Companies retain the right to challenge the assessment of the Subproject Facilities, to the extent that the Companies elect to do so. The Companies 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 Companies are obligated to make a payment pursuant to this Agreement.

### SECTION 2.3. CREDIT FOR TAXES PAID.

(A) Amount of Credit. The parties hereto acknowledge and agree that the obligation of the Companies to make the payments provided in Section 2.2 of this Project PILOT Agreement shall be in addition to any and all other taxes and governmental charges of any kind whatsoever which the Companies may be required to pay under the Lease Agreement. It is understood and agreed, however, that, should the Companies pay in any fiscal tax year to the Agency any amounts in the nature of general property 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 Companies or the occupancy thereof by the Companies (but not including, by way of example, (1) sales and use taxes, and (2) special assessments, special ad valorem levies or governmental charges in the nature of utility charges, including but not limited to water, solid waste, sewage treatment or sewer or other rents, rates or charges), then the Companies' obligation to make payments in lieu of property taxes attributed to such fiscal tax

year to the Agency hereunder shall be reduced by the amounts which the Companies shall have so paid to the Agency in such fiscal tax year, but there shall be no cumulative or retroactive credit as to any payment in lieu of property taxes due to the Agency in any other fiscal tax year.

(B) Payment in Last Year of PILOT. In light of the inability of the Affected Taxing Jurisdictions to grant to the Companies a credit against tax bills for partial year tax liability under Sections 520 and 533 of the NYS Real Property Tax Law, the obligation of the Companies to make payments under this Project PILOT Agreement shall be modified in the last scheduled year of the Project PILOT or in the last year of the Project PILOT pursuant to an early termination notice sent by the Companies to the Agency pursuant to Section 11.1 of the Project Lease ( in either case, the "Final PILOT Year"). The Companies' payments as required under Section 2.2 of the this Project PILOT Agreement shall be proportionately reduced for the Last PILOT Year so that the amount of the payment made under Section 2.2 is directly proportionate to the portion of tax year of each of the Affected Taxing Jurisdictions during which the Project PILOT Agreement are effective. For sake of clarity and to avoid any confusion, the Agency shall calculate the PILOT payment under Section 2.2 such that the Companies have no obligation to make a payment for that portion of the tax year of any Affected Taxing Jurisdiction which occurs after the termination of the Project PILOT Agreement.

#### SECTION 2.4. LATE PAYMENTS.

(A) First Month. Pursuant to Section 874(5) of the Act, if the Companies shall fail to make any payment required by this Project PILOT Agreement when due and such failure continues for a period of ten (10) days after notice from the Agency, the Companies shall pay the same, together with a late payment penalty equal to five percent (5%) of the amount due.

(B) Thereafter. If the Companies shall fail to make any payment required by this Project PILOT Agreement when due and such delinquency shall continue beyond the first month, the Companies' obligation to make the payment so in default shall continue as an obligation of the Companies to the Affected Taxing Jurisdiction until such payment in default shall have been made in full, and the Companies shall pay the same to the Affected Taxing Jurisdiction together with (1) a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus (2) interest thereon, to the extent permitted by law, at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would be payable if such amount were delinquent taxes, until so paid in full.

SECTION 2.5 RECAPTURE. In the event the Subproject is sold to a third party without the Agency's consent (as contemplated in Section 8.4 of the Master Lease), or the Tenant permanently discontinues its operations at any Subproject (excluding therefrom, periods of time that the operations cease as result of a casualty, condemnation, renovation or remodeling of Tenant's operations), or the number of jobs is reduced below 75% of the number employed at the time of application or below 75% of the employment projections provided by the Companies and no substantial future economic benefit is likely to accrue to the community, the Companies may be required to pay to the Agency, based on the formula set forth below, a portion of the sales taxes and mortgage recording tax, if applicable, which the Companies would have paid if the

Subproject were privately owned by the Companies and not deemed owned by or under the jurisdiction or control or supervision of the Agency.

The benefits received shall be subject to recapture as follows:

Within two (2) years of completion of the project:	75%
Within three (3) years:	60%
Within four (4) years:	40%
Within five (5) years:	50%
Six or more years:	0%

### **ARTICLE III LIMITED OBLIGATION**

#### **SECTION 3.1. NO RECOURSE; LIMITED OBLIGATION OF THE AGENCY.**

(A) No Recourse. All obligations, covenants, and agreements of the Agency contained in this Project PILOT Agreement shall be deemed to be the obligations, covenants and agreements of the Agency and not of any member, officer, agent, servant or employee of the Agency in his individual capacity, and no recourse under or upon any obligation, covenant or agreement contained in this Project PILOT Agreement, or otherwise based upon or in respect of this Project PILOT Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future member, officer, agent (other than the Companies), servant or employee, as such, of the Agency or any successor public benefit corporation or political subdivision or any person executing this Project PILOT Agreement on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision or any person so executing this Project PILOT Agreement, it being expressly understood that this Project PILOT Agreement is a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, officer, agent (other than the Companies), servant or employee of the Agency or of any successor public benefit corporation or political subdivision or any person so executing this Project PILOT Agreement under or by reason of the obligations, covenants or agreements contained in this Project PILOT Agreement or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, officer, agent (other than the Companies), servant or employee under or by reason of the obligations, covenants or agreements contained in this Project PILOT Agreement or implied therefrom are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of this Project PILOT Agreement by the Agency.

(B) Limited Obligation. The obligations, covenants and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or Onondaga County, New York, and neither the State of New York nor Onondaga County, New York shall be liable thereon and, further, such obligations, covenants 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, sale or other disposition of the Premises (except for revenues derived by the Agency with respect to the Unassigned Rights, as defined in the Lease Agreement).

(C) Further Limitation. Notwithstanding any provision of this Project PILOT Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (1) the Agency shall have been requested to do so in writing by the Companies, and (2) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any of its members, officers, agents, servants or employees) of any liability, fees, expenses or other costs, the Agency shall have received from the Companies security or indemnity and an agreement from the Companies to defend and hold harmless the Agency satisfactory to the Agency for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

#### **ARTICLE IV EVENTS OF DEFAULT**

SECTION 4.1. EVENTS OF DEFAULT. Any one or more of the following events shall constitute an event of default under this Project PILOT Agreement, and the terms "Event of Default" or "default" shall mean, whenever they are used in this Project PILOT Agreement, any one or more of the following events:

(A) Failure of the Companies to pay any amount due and payable by the Companies pursuant to this Project PILOT Agreement and continuance of said failure for a period of fifteen (15) days after written notice to the Companies stating that such payment is due and payable;

(B) Failure of the Companies to observe and perform any other covenant, condition or agreement on its part to be observed and performed hereunder (other than as referred to in paragraph (A) above) and continuance of such failure for a period of thirty (30) days after written notice to the Companies specifying the nature of such failure and requesting that it be remedied; provided that if such default cannot reasonably be cured within such thirty (30) day period and if the Companies shall have commenced action to cure the breach of covenant, condition or agreement within said thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as the Companies shall require in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of ninety (90) days in the aggregate from the date of default; or

(C) Any warranty, representation or other statement by or on behalf of the Companies contained in this Project PILOT Agreement shall prove to have been false or incorrect in any material respect on the date when made or on the effective date of this Project PILOT Agreement and (1) shall be materially adverse to the Agency at the time when the notice referred to below shall have been given to the Companies and (2) if curable, shall not have been cured within thirty (30) days after written notice of such incorrectness shall have been given to a responsible officer of the Companies, provided that if such correctness cannot reasonably be cured within said thirty-day period and the Companies shall have commenced action to cure the incorrectness within said thirty-day period and the Companies shall have commenced action to cure the

incorrectness within said thirty-day period, such thirty-day period shall be extended for so long as the Companies shall require, in the exercise of due diligence, to cure such default.

#### SECTION 4.2. REMEDIES ON DEFAULT.

(A) General. Whenever any Event of Default shall have occurred with respect to this Project PILOT Agreement, the Agency (or if such Event of Default concerns a payment required to be made hereunder to any Affected Taxing Jurisdiction, then with respect to such Event of Default such Affected Taxing Jurisdiction) may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Companies under this Project PILOT Agreement.

(B) Cross-Default. In addition, an Event of Default hereunder shall constitute an event of default under Article X of the Lease Agreement. Upon the occurrence of an Event of Default hereunder resulting from a failure of the Companies to make any payment required hereunder, the Agency shall have, as a remedy therefor under the Lease Agreement, among other remedies, the right to terminate the Lease Agreement and convey the Facility to the Companies, thus subjecting the Facility to immediate full taxation pursuant to Section 520 of the Real Property Tax Law of the State.

(C) Separate Suits. Each such Event of Default shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action arises.

(D) Venue. The Companies irrevocably agree that any suit, action or other legal proceeding arising out of this Project PILOT Agreement may be brought in the courts of record of the State, consents to the jurisdiction of each such court in any such suit, action or proceeding, and waives any objection which it may have to the laying of the venue of any such suit, action or proceeding in any of such courts.

SECTION 4.3. PAYMENT OF ATTORNEYS' FEES AND EXPENSES. Pursuant to Section 874(6) of the Act, if the Companies should default in performing any of its obligations, covenants or agreements under this Project PILOT Agreement and the Agency or any Affected Taxing Jurisdiction should employ attorneys or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation, covenant or agreement on the part of the Companies herein contained, the Companies agree that it will, on demand therefor, pay to the Agency or such Affected Taxing Jurisdiction, as the case may be, not only the amounts adjudicated due hereunder, together with the late payment penalty and interest due thereon, but also the reasonable fees and disbursements of such attorneys and all other reasonable expenses, costs and disbursements so incurred, whether or not an action is commenced.

#### SECTION 4.4. REMEDIES; WAIVER AND NOTICE.

(A) No Remedy Exclusive. No remedy herein conferred upon for reserved to the Agency or any Affected Taxing Jurisdiction is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Project PILOT Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required. In order to entitle the Agency or any Affected Taxing Jurisdiction to exercise any remedy reserved to it in this Project PILOT Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Project PILOT Agreement.

(D) No Waiver. In the event any provision contained in this Project PILOT Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Project PILOT Agreement shall be established by conduct, custom or course of dealing.

## ARTICLE V MISCELLANEOUS

SECTION 5.1. TERM. This Project PILOT Agreement shall become effective and the obligations of the Companies shall arise absolutely and unconditionally upon the later of (i) January 1 following the issuance of all Certificates of Occupancy from the City of Syracuse necessary for the operation of the Subproject and (ii) the execution and delivery of this Project PILOT Agreement by the Companies and the Agency (the "Effective Date"). Unless otherwise provided by amendment hereof and subject to the provisions of Section 5.1(B) below, this Project PILOT Agreement shall continue to remain in effect as to any particular tax parcel incorporated in the Facility until the earlier to occur of (1) December 31 in the year following the date on which fifteen (15) consecutive annual PILOT payments are due or (2) the date on which the tax parcel is reconveyed by the Agency to the Companies pursuant to the Lease Agreement.

SECTION 5.2. FORM OF PAYMENTS. The amounts payable under this Project PILOT Agreement shall be payable in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

SECTION 5.3. COMPANY ACTS. Where the Companies are required to do or accomplish any act or thing hereunder, the Companies may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Companies.

SECTION 5.4. AMENDMENTS. This Project PILOT Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

SECTION 5.5. RELEASE. The parties to this Project PILOT Agreement acknowledge and agree that portions of the Premises may be released from the terms and conditions of this Project PILOT Agreement including the Master PILOT upon the request of the Companies. Additionally, at the request of the Companies, upon the execution of a Project PILOT Agreement for a Project, the tax parcel relative to that Project shall be released from the terms and conditions of this Project PILOT Agreement.

#### SECTION 5.6. NOTICES.

(A) General. All notices, certificates or other communications hereunder shall be in writing and may be personally served, telecopied or sent by courier service or United States mail and shall be sufficiently given and shall be deemed given when (1) sent to the applicable address stated below by United States registered or certified mail, postage prepaid, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) delivery is refused by the addressee, as evidenced by the affidavit of the person who attempt to effect such delivery.

(B) Notices Given by Taxing Entities. Notwithstanding the foregoing, notices of assessment or reassessment of the Subproject Facility and other notices given by an Affected Taxing Jurisdiction under Article II hereof shall be sufficiently given and shall be deemed given when by the Affected Taxing Jurisdiction in the same manner in which similar notices are given to owners of taxable properties by such Affected Taxing Jurisdiction.

(C) Addresses. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

##### IF TO THE AGENCY:

Onondaga County Industrial Development Agency  
333 West Washington Street, Room 130  
Syracuse, New York 13202  
Attention: Julie Cerio, Executive Director

##### WITH A COPY TO:

Gilberti Stinziano Heintz & Smith, P.C.  
555 East Genesee Street  
Syracuse, New York 13202  
Attention: Anthony P. Rivizzigno, Esq.

IF TO THE COMPANIES:

COR VAN RENSSELAER COMPANY III, INC.  
COR VAN RENSSELAER STREET COMPANY II, LLC  
c/o COR Development Company, LLC  
540 Towne Drive  
Fayetteville, NY 13066  
Attn: Legal Department

and

COR VAN RENSSELAER COMPANY III, INC.  
COR VAN RENSSELAER STREET COMPANY II, LLC  
c/o COR Development Company, LLC  
540 Towne Drive  
Fayetteville, NY 13066  
Attn: CFO

WITH A COPY TO:

Mannion Copani  
224 Harrison Street, Suite 306  
Syracuse, New York 13202  
Attn: Terence A. J. Mannion, Esq.

And

CPC FUNDING SPE 1 LLC  
c/o The Community Preservation Corporation  
28 East 28th Street, 9th Floor  
New York, New York 10016-7943  
Attention: General Counsel  
Loan/ # 70519  
Facsimile: (212) 683-2909

(D) Copies. A copy of any notice given hereunder by the Companies which affects in any way a Taxing Entity shall also be given to the chief executive officer of such Affected Taxing Jurisdiction.

(E) Change of Address. The Agency, the Companies or any Affected Taxing Jurisdiction may, by notice given hereunder, designate any further or different address to which subsequent notices, certificates or other communications to them shall be sent.

SECTION 5.7. BINDING EFFECT. This Project PILOT Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Companies and their respective successors and



assigns. The provisions of this Project PILOT Agreement are intended to be for the benefit of the Agency and the respective Affected Taxing Jurisdictions.

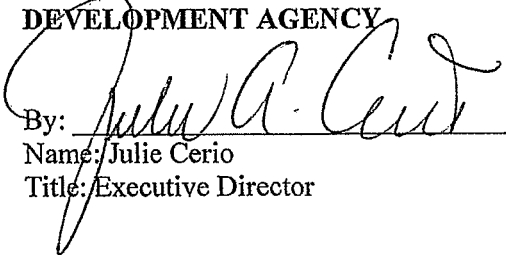
SECTION 5.8. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Project PILOT Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, 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 Project PILOT Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

SECTION 5.9. COUNTERPARTS. This Project PILOT Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 5.10. APPLICABLE LAW. This Project PILOT Agreement shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Agency and the Companies have caused this Project PILOT Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

ONONDAGA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Name: Julie Cerio  
Title: Executive Director


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

On the 18 day of April in the year 2016, before me, the undersigned, personally appeared JULIE CERIO, 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 acknowledges to be that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

ISABELLE HARRIS  
NOTARY PUBLIC - STATE OF NEW YORK  
NO. 01HA6188731  
QUALIFIED IN ONONDAGA COUNTY  
COMMISSION EXPIRES JUNE 9, 2017 ly

  
Notary Public

**COR VAN RENSSELAER COMPANY III,  
INC.**

By 

Name: Steven F. Aiello  
Title: President

**COR VAN RENSSELAER STREET  
COMPANY II, LLC**

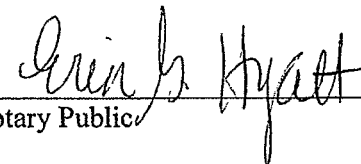
By 

Name: Steven F. Aiello  
Title: General Manager

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

On the 20<sup>th</sup> day of April in the year 2016, before me, the undersigned, personally appeared **STEVEN F. AIELLO**, 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.

ERIN G. HYATT  
Notary Public - State of New York  
No. 01HY6295050  
Qualified in Onondaga County  
My Commission Expires December 23, 2017

  
Notary Public

## EXHIBIT A-2

### Property Description

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Lot B2 of the Resubdivision of Abandoned New York State Barge Canal Terminal Lands according to a map of said resubdivision filed April 30, 2012 as Map No. 11527 and known as New Lot B2-4 of the Resubdivision of Lot B1 and Lot B2 of Resubdivision of Abandoned New York State Barge Canal Terminal Lands according to a map by Ianuzi & Romans Land Surveying, P.C. dated February 27, 2014 filed in the Onondaga County Clerk's Office on September 3, 2014 as Map No. 11906.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being Lot No. C-2 of Subdivision of Parcel "C" into Lot Nos. C-1, C-2 & C-3 New York Canal Corporation Abandoned Barge Canal Terminal Lands according to a map of said tract filed in the Onondaga County Clerk's Office October 23, 2015 as Map No. 12100.

**Exhibit A**

**To The**

**COR VAN RENSSELAER COMPANY III, INC. AND  
COR VAN RENSSELAER STREET COMPANY II, LLC  
Subproject Payment in Lieu of Tax Agreement**

**Fair Market Land Valuation Table<sup>1</sup>**

Parcel	Acreage	2015 City of Syracuse Assessment Values	Fair Market Land Value	Fair Market Land Value per Acre
Parcel B2-4 117.-01-01.5 720 Van Rensselaer Street	1.59	\$345,000	\$423,313	\$266,234
Parcel C-2 107.-12-01.5 715 Van Rensselaer Street	1.428		\$176,363.77	\$123,938

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<sup>1</sup> \* The Fair Market Land Value was calculated using the 2015 agreed upon Assessed Values divided by the current equalization rate of 81.5%.

**Exhibit B**

**To The**

**Master Payment in Lieu of Tax Agreement**

**Fair Market Usage Valuation Table**

Use	Unit	# of Units	Assessed Value	Fair Market Use Value Per Unit
Retail Building	Per Square Foot	45,200 square feet	\$62.51	\$76.70
Multi-Family Residential	Per Apartment Unit	108 apartment units	\$31,772	\$38,984

**Exhibit C**

**To The**

**Master Payment in Lieu of Tax Agreement**

**Exemption Schedule**

Year	Exemption %
1	100%
2	100%
3	100%
4	100%
5	100%
6	90%
7	80%
8	70%
9	60%
10	50%
11	40%
12	30%
13	20%
14	10%
15	0%