

# **Preliminary Resolution**

## PRELIMINARY RESOLUTION

*(Vincent Properties Inc. Project)*

A regular meeting of Niagara County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 6311 Inducon Corporate Drive, Suite One, Sanborn, New York on the 9<sup>th</sup> day of September, 2020 at 9:00 a.m., local time.

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

### PRESENT:

Mark A. Onesi, Chairman  
Jerald I. Wolfgang  
Kevin McCabe  
William L. Ross  
Robert B. Cliffe  
Clifford Scott  
Scott Brydges  
Jason Krempa

### ABSENT:

Mary Lynn Candella

### THE FOLLOWING PERSONS WERE ALSO PRESENT:

Susan C. Langdon	Executive Director
Andrea Klyczek	Assistant Director
Dmitri Liadski	Economic Developer
Michael Dudley	Finance Manager
Caroline Caruso	Accounting Associate
Susan Barone	Administrative Assistant
Mark Gabriele, Esq.	Agency Counsel

The following resolution was offered by Mr. Krempa, seconded by Mr. Ross, to wit:

**Resolution No. 8.1.1**

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING THE APPLICATION OF VINCENT PROPERTIES INC. WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW) TO BE UNDERTAKEN BY THE AGENCY FOR THE BENEFIT OF VINCENT PROPERTIES INC. FOR ITSELF OR ON BEHALF OF AN ENTITY FORMED OR TO BE FORMED; (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT; (iii) AUTHORIZING THE EXECUTIVE DIRECTOR OF THE AGENCY TO TAKE CERTAIN ACTIONS UNDER ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW IN CONNECTION WITH THE PROJECT; (iv) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY AND (v) AUTHORIZING THE DISTRIBUTION OF A PILOT DEVIATION LETTER.

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

WHEREAS, **VINCENT PROPERTIES INC.**, and/or an individual(s) or affiliate, subsidiary, or entity or entities formed or to be formed on its behalf (the "Company"), has submitted an application to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of: (A) the acquisition or retention by the Agency of fee title to, or a leasehold interest in an approximately 6.02 acre site as set forth in Exhibit A located on Lexington Court in the City of Lockport, Niagara County, New York (the "Land"), the renovation of thirteen (13) existing buildings totaling approximately 50,000 square feet located on the Land, (the "Improvements") comprised of twelve (12) single floor duplex senior apartments, along with one (1) senior assisted living facility; (B) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment" and collectively with the Land and the Improvements, the "Facility"); and

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

WHEREAS, it is contemplated that the Agency will hold a public hearing and (i) negotiate a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement"), payment-in-lieu-of-tax agreement (the "PILOT Agreement") and payment-in-lieu of tax mortgage (the "PILOT Mortgage") with the Company, (ii) take or retain fee title to, a leasehold or other interest in the Land, Improvements, Equipment and personal property

constituting the Facility (once the Lease Agreement, Leaseback Agreement, PILOT Agreement and PILOT Mortgage have been negotiated), and (iii) provide financial assistance to the Company in the form of a mortgage recording tax exemption for financing related to the Project, consistent with the policies of the Agency, a partial real property tax abatement and a mortgage recording tax exemption with respect to a certain payment-in-lieu-of-tax mortgage, and (iv) authorize the circulation of a PILOT Deviation Letter to the affected Taxing Jurisdictions; and

WHEREAS, pursuant to Section 862-C of the Act. The Project will assist the Company in its acquisition, renovation and equipping of the Facility, provide stability for the Company and the Taxing Jurisdictions, preserve existing jobs and help the community retain a needed facility for its elderly population.

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

WHEREAS, prior to the Agency providing Financial Assistance to the Company (and/or its designees), the Agency must (i) hold a public hearing in accordance with the Act; and (ii) determine that the Project will assist the Company in its acquisition, renovation and equipping of the facility, provide stability for the Company and the taxing jurisdictions, preserve existing jobs and help the community retain a needed facility for its elderly population.

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

WHEREAS, the Agency contemplates that the Financial Assistance provided to the Company under the PILOT Agreement will deviate from the Agency's Uniform Tax Exemption Policy; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:

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

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

(B) The Agency has the authority to take the actions contemplated herein under the Act; and

(C) The action to be taken by the Agency will induce the Company to acquire, renovate and equip the Facility, provide stability for the Company and the Taxing Jurisdictions, preserve existing jobs and help the community retain a needed facility for its elderly population in the Taxing Jurisdictions and otherwise furthering the purposes of the Agency as set forth in the Act; and

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

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

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

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

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

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

Section 3. The Project will serve the purposes of Article 18-A of the Act by assisting the Company in its acquisition, renovation and equipping of the Facility, provide stability for the Company and the Taxing Jurisdictions, preserve existing jobs and help the community retain a needed facility for its elderly population.

Section 4. The Chairman, Vice Chairman and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to hold a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) a Lease Agreement, whereby the Company leases the Facility to the Agency, (B) a related Leaseback Agreement, conveying the Facility back to the Company, (C) a PILOT Agreement, whereby the Company agrees to make certain payments-in-lieu-of real property taxes, (D) a PILOT Mortgage, securing the payment of the amounts due under the PILOT Agreement and (E) related documents; *provided*, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 5. The Agency is hereby authorized to conduct a public hearing in compliance with the Act.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 7. These Resolutions shall take effect immediately upon adoption.

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

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Mark A. Onesi	[ X ]	[ ]	[ ]	[ ]
Kevin McCabe	[ X ]	[ ]	[ ]	[ ]
Jerald I. Wolfgang	[ X ]	[ ]	[ ]	[ ]
William L. Ross	[ X ]	[ ]	[ ]	[ ]
Scott Brydges	[ X ]	[ ]	[ ]	[ ]
Robert B. Cliffe	[ X ]	[ ]	[ ]	[ ]
Mary Lynn Candella	[ ]	[ ]	[ ]	[ X ]
Clifford Scott	[ X ]	[ ]	[ ]	[ ]
Jason Krempa	[ X ]	[ ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.

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

I, the undersigned (Assistant) Secretary of Niagara County Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on September 9, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 9<sup>th</sup> day of September, 2020.

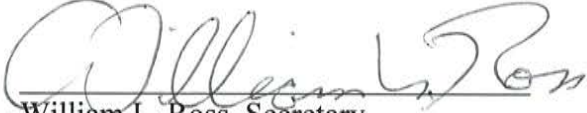
  
William L. Ross, Secretary

EXHIBIT A

HERITAGE, LOCKPORT, NY

<u>SBL</u>	<u>Street Adress</u>	<u>Approx. SF</u>	<u>Assessed Value</u>
109.20-2-42	5 Lexington Ct	2,500	129,500
109.20-2-30	6 Lexington Ct	2,500	130,600
109.20-2-41	15 Lexington Ct	2,500	129,000
109.20-2-31	16 Lexington Ct	2,500	122,800
109.20-2-32	26 Lexington Ct	2,500	119,700
109.20-2-33	34 Lexington Ct	2,500	118,000
109.20-2-34	44 Lexington Ct	2,500	127,200
109.20-2-35	52 Lexington Ct	2,500	117,600
109.20-2-36	60 Lexington Ct	2,500	126,600
109.20-2-39	65 Lexington Ct.	2,500	125,000
109.20-2-37	72 Lexington Ct	2,500	128,600
109.20-2-38	73 Lexington Ct	2,500	127,600
			<hr/> <hr/> <b>1,502,200</b>
109.20-2-40	41 Lexington Ct	20,000	951,300
		<b>Total</b>	<hr/> <hr/> <b>2,453,500</b>



# **Final Resolution**

**FINAL RESOLUTION**  
*(Vincent Properties Inc. Project)*

A regular meeting of Niagara County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 6311 Inducon Corporate Drive, Suite One, Sanborn, New York on the 18th day of November, 2020 at 9:00 a.m., local time.

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

PRESENT:

Mark A. Onesi, Chairperson  
Jerald I. Wolfgang  
Kevin McCabe  
William L. Ross  
Robert B. Cliffe  
Clifford Scott  
Jason Krempa

ABSENT:

Scott Brydges  
Mary Lynn Candella

THE FOLLOWING PERSONS WERE ALSO PRESENT:

Susan C. Langdon	Executive Director
Andrea Klyczek	Assistant Director
Michael Dudley	Manager of Finance
Susan Barone	Administrative Assistant
Mark Gabriele, Esq.	Agency Counsel

The following resolution was offered by Mr. Clifford Scott, seconded by Mr. Jason Krempa, to wit:

Resolution No. 7.1.1

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) UNDERTAKE A CERTAIN PROJECT FOR THE BENEFIT OF VINCENT PROPERTIES INC. AND/OR AN INDIVIDUAL(S) OR AFFILIATE, SUBSIDIARY, OR ENTITY FORMED OR TO BE FORMED ON ITS BEHALF (AS MORE FULLY DEFINED BELOW); (ii) DETERMINE THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; (iii) NEGOTIATE AND EXECUTE A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT, PILOT MORTGAGE AND RELATED DOCUMENTS: AND (iv) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A MORTGAGE RECORDING TAX EXEMPTION FOR THE FINANCING RELATED TO THE PROJECT; AND (B) A MORTGAGE RECORDING TAX EXEMPTION FOR THE MORTGAGE RELATED TO THE PILOT AGREEMENT.

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

WHEREAS, **VINCENT PROPERTIES INC.**, and/or an individual(s) or affiliate, subsidiary, or entity or entities formed or to be formed on its behalf (the "Company"), has submitted an application to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of: (A) the acquisition or retention by the Agency of a leasehold interest in an approximately 6.02 acre site as set forth in Exhibit C located on Lexington Court in the City of Lockport, Niagara County, New York (the "Land"), and thirteen (13) existing buildings totaling approximately 50,000 square feet located on the Land, (the "Improvements") comprised of twelve (12) single floor duplex senior apartments, along with one (1) senior assisted living facility; (B) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment" and collectively with the Land and the Improvements, the "Facility"); and

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

WHEREAS, on September 9, 2020, the Agency adopted a resolution (the "Preliminary Resolution") accepting the Application and directing that a public hearing be held and authorizing the issuance of a Deviation Letter to the Affected Taxing Jurisdictions; and

WHEREAS, Notice letters stating that there will be a deviation from the Agency's Uniform Tax Exemption Policy (the PILOT Deviation Letter") were mailed or delivered to the chief executive officers of each of the Affected Tax Jurisdictions on September 9, 2020; and

WHEREAS, it was contemplated that the Agency would hold a public hearing and (i) negotiate a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement"), payment-in-lieu-of-tax agreement (the "PILOT Agreement") and payment-in-lieu of tax mortgage (the "PILOT Mortgage") with the Company, (ii) take or a leasehold interest in the Land, Improvements, Equipment and personal property constituting the Facility (once the Lease Agreement, Leaseback Agreement, PILOT Agreement and PILOT Mortgage have been negotiated), and (iii) provide financial assistance to the Company in the form of a partial mortgage recording tax exemption for financing related to the Project, consistent with the policies of the Agency, a real property tax abatement and a mortgage recording tax exemption with respect to a certain payment-in-lieu-of-tax mortgage; and

WHEREAS, on the 19<sup>th</sup> day of October, 2020, at 1:45 p.m. at the Niagara County Industrial Development Agency, Sanborn, New York 14132, the Agency held a public hearing with respect to the Project and the proposed financial assistance being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Minutes of the Public Hearing along with the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions prior to said Public Hearing are attached hereto as Exhibit A;

WHEREAS, at this November 18, 2020 regular meeting, the Agency allowed all representatives of all affected tax jurisdictions present at the meeting to address the Agency with respect to the deviation from the Agency's Uniform Tax Exemption Policy; and

WHEREAS, the Company has submitted to the Agency a Short Environmental Assessment Form (the "EAF") in compliance with Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQR") with respect to the Project, a copy of which is attached hereto as Exhibit B.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:

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

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

(B) The Agency has the authority to take the actions contemplated herein under the Act; and

(C) The action to be taken by the Agency will serve the public purposes of the Act and that the Project will preserve permanent, private sector jobs and help maintain the operation of an assisted living facility in the affected taxing jurisdictions.

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

(E) The Project involves an "unlisted action" (as said quoted term is defined under SEQR). The review is "uncoordinated" (as said quoted term is defined under SEQR). Based upon the review by the Agency of the Short Environmental Assessment Form (the "EAF") and related documents delivered by the Company to the Agency and other representations made by the Company to the Agency in connection with the Project, the Agency hereby finds that (i) the Project will result in no major impacts and, therefore, is one which may not cause significant damage to the environment; (ii) the Project will not have a "significant effect on the environment" (as said quoted term is defined under SEQR) ; and (iii) no "environmental impact statement" (as said quoted term is defined under SEQR) need be prepared for this action. This determination constitutes a "negative declaration" (as said quoted term is defined under SEQR) for purposed of SEQR. The Agency's findings are incorporated in Part II of the EAF.

Section 2. The Agency hereby finds and determines that it has considered any and all responses from the Affected Tax Jurisdictions to the PILOT Deviation Letter, that the Agency has permitted all representatives from an Affected Tax Jurisdiction to address the Agency regarding the proposed deviation, that the Agency has responded to all written comments received with respect to the proposed deviation, and hereby determines to deviate from the Agency's Uniform Tax Exemption Policy with respect to the proposed PILOT Agreement terms as described in Exhibit D within this resolution. The Project will serve the purposes of Article 18-A of the Act by assisting the Company in its acquisition, renovation and equipping of the Facility, provide stability for the Company and the Taxing Jurisdictions, preserve existing jobs and help the community retain a needed facility for its elderly population.

Section 3. The Agency hereby approves the provisions of financial assistance to the Company in the form of a real property tax abatement through a PILOT Agreement with respect to the land and existing facilities located on the on the tax map SBL numbers as set forth in Exhibit C, all in connection with the undertaking of the Project.

Section 4. The Agency hereby confers on the Company in connection with the Project certain benefits, exemptions and other financial assistance consisting of: (a) an exemption benefit from mortgage recording tax, and (b) an exemption from real property taxes in exchange for a certain Payment in Lieu of Tax Agreement. The Agency will provide the

Company with Project incentives totaling \$732,248.00, comprised of real property tax exemption benefits, in the estimated amount of \$690,874.00 and Mortgage Recording Tax Exemption benefits of approximately \$41,374.00. To effectuate this Resolution, the Chairman, Vice Chairman and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (A) the Lease Agreement whereby the Company leases the Project to the Agency, (B) the related Leaseback Agreement conveying the Project back to the Company, and (C) the PILOT Agreement with real property tax exemption benefits; provided (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 5. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 6. These Resolutions shall take effect immediately upon adoption.

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

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Mark A. Onesi	[ X ]	[ ]	[ ]	[ ]
Kevin McCabe	[ X ]	[ ]	[ ]	[ ]
Jerald I. Wolfgang	[ X ]	[ ]	[ ]	[ ]
William L. Ross	[ X ]	[ ]	[ ]	[ ]
Scott Brydges	[ ]	[ ]	[ ]	[ X ]
Robert B. Cliffe	[ X ]	[ ]	[ ]	[ ]
Mary Lynn Candella	[ ]	[ ]	[ ]	[ X ]
Clifford Scott	[ X ]	[ ]	[ ]	[ ]
Jason Krempa	[ X ]	[ ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.

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

I, the undersigned (Assistant) Secretary of Niagara County Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on November 18, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 18th day of November, 2020.

  
Secretary

EXHIBIT A

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

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Niagara County Industrial Development Agency (the "Agency") on the 19th day of October, 2020, at 1:45 p.m., local time. Because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive Order 220.1 originally issued on March 12, 2020 suspending the Open Meetings Law, the Public Hearing scheduled for October 19, 2020 being held by the Niagara County Industrial Development Agency (the "Agency") in accordance with the provisions of Article 18-A of the New York General Municipal Law with respect to Vincent Properties, Inc. project located on approximately 6.02 acres on Lexington Court (see Exhibit A below), Lockport, New York will be held electronically via conference call instead of a public hearing open for the public to attend in person. Members of the public may listen to or view the Public Hearing and comment on the Project and the benefits to be granted to the Applicant by the Agency during the Public Hearing by dialing 716-439-7740, enter meeting number 8763#, then enter PIN number 1234#. Comments may also be submitted to the Agency in writing or electronically. Minutes of the Public Hearing will be transcribed and posted on the Niagara County Industrial Development Agency's website.

Vincent Properties Inc., and/or an individual(s) or affiliate, subsidiary, or entity or entities formed or to be formed on its behalf (the "Company"), has submitted an application to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of: (A) the acquisition or retention by the Agency of fee title to, or a leasehold interest in, a parcels of land as set forth in Exhibit A located on Lexington Court in the City of Lockport, Niagara County, New York (the "Land"), the renovation of thirteen (13) existing buildings totaling approximately 50,000 square feet located on the Land, (the "Improvements") comprised of twelve (12) single floor duplex senior apartments, along with one (1) senior assisted living facility; (B) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment" and collectively with the Land and the Improvements, the "Facility").

The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will be deviating from its policies in providing financial assistance (the "Financial Assistance") to the Company in the form of a mortgage tax exemption consistent with the policies of the Agency and a partial real property tax abatement.

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

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

DATED: September 29, 2020

NIAGARA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Susan C. Langdon  
Executive Director



Public Hearing  
Exhibit A

HERITAGE, LOCKPORT, NY

<u>SBL</u>	<u>Street Address</u>	<u>Approx. SF</u>	<u>Assessed Value</u>
109.20-2-42	5 Lexington Ct	2,500	129,500
109.20-2-30	6 Lexington Ct	2,500	130,600
109.20-2-41	15 Lexington Ct	2,500	129,000
109.20-2-31	16 Lexington Ct	2,500	122,800
109.20-2-32	26 Lexington Ct	2,500	119,700
109.20-2-33	34 Lexington Ct	2,500	118,000
109.20-2-34	44 Lexington Ct	2,500	127,200
109.20-2-35	52 Lexington Ct	2,500	117,600
109.20-2-36	60 Lexington Ct	2,500	126,600
109.20-2-39	65 Lexington Ct	2,500	125,000
109.20-2-37	72 Lexington Ct	2,500	128,600
109.20-2-38	73 Lexington Ct	2,500	127,600
			<u>1,502,200</u>
109.20-2-40	41 Lexington Ct	20,000	951,300
		Total	<u>2,453,500</u>

## PUBLIC HEARING TRANSCRIPT

**Vincent Properties, Inc. and/or Individual(s)  
or Affiliate(s), Subsidiary(ies), or Entity(ies)  
formed or to be formed on its behalf**

October 19, 2020 at 1:45 p.m.  
remotely at NCIDA offices

Susan Langdon: *Welcome. This public hearing is now open; it is 1:15p.m. My name is Susan Langdon, I am the Executive Director of the Niagara County Industrial Development Agency, and I have been designated by the Agency to be the hearing officer to conduct this public hearing. We are conducting this meeting remotely and the public can access this hearing via telephone, as advertised in the public hearing notice published in the Lockport Union Sun and Journal and posted on our website. I'm going to read the names of the people that are on the phone: Lisa Glenna, Niagara County Real Property Tax Office; Rick Abbott, 5<sup>th</sup> Ward Alderman from the City of Lockport; Mark Eberhardt, Owner of Heritage Manor and Joe Enzinna, interested party.*

*Would anyone else who is on the phone please identify yourself? No one else is on the call.*

Susan Langdon: *We are here to hold the public hearing on Vincent Properties, Inc. and/or Individual(s) or Affiliate(s), Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf. The transcript of this hearing will be reviewed and considered by the Agency in determination of this project.*

Susan Langdon: *The proposed project (the "Project") includes the purchase of the Heritage Manor and Heritage Manor Estates in Lockport by Vincent Properties, Inc. The project application and project summary are posted on the Agency's website at niagaracountybusiness.com*

*The proposed financial assistance contemplated by the Agency includes New York State and local sales and use tax exemption benefits and mortgage recording tax exemption benefits (in compliance with Agency's uniform tax exemption policy).*

Susan Langdon: *If you have a written comment to submit for the record, you may do so. Written comments may also be delivered to Agency at 6311 Inducon Corporate Drive, Suite One, Sanborn, New York 14132 or by email to me until the comment period closes on October 20, 2020.*

Susan Langdon: *If anyone is interested in making a comment, please respond and state your name and address; if you are representing a company, please identify the company. Does anyone wish to speak?*

Rick Abbott: *Actually, I do Sue. This is Rick Abbott, Alderman for the City Of Lockport.*

Susan Langdon: *Go ahead, Rick*

Rick Abbott: *Ok, my concern as a representative of the City as being a representative of the 5<sup>th</sup> Ward and representative of the City is the properties are actually private pay. There's no government subsidized rate or contributions and just an example with the condos located on Lexington Court is that the going rent is somewhere in the neighborhood of \$1,500 a month although they're categorized as "Seniors on the Go", it's actually independent living and they have to pay for themselves. It's not clear, to me anyways. It kind of alludes to the fact that there might be laundry or meal services available for those 12 units or 24 living units. That is not part of the agreement. Um, and the fact that they're assessed at \$125,000, but the sale price is somewhere around \$175,000. I'm just doing that as an estimate, I'm not a real*

estate person, but when they're generating \$2,000 a month in income for a \$175,000 facility, the facility pretty much is... Whoever owns the facility is making pretty good revenue and the house would probably pay for itself in 6 years. If they were going to go on the market, I'm going to guess that people would be lining up to purchase them. The Assisted Living is over \$4,000 a month and they don't accept any Medicaid for Assisted Living and the fact again, is putting \$200,000 into possibly aesthetic improvements, I'm not actually seeing the worthiness of the program and with two additional people being hired which are lower paying jobs, of what benefit this is to the City. In addition to it, the current owner basically has a whole street to themselves of which the City maintains the water, the sewer, street maintenance and repairs, so this will put a burden on the City of Lockport in regards to any type of reduction in revenue along with property taxes. Thank you.

Susan Langdon: *Ok. Thank you. Does anybody else wish to speak for the record? All right, I'd like to add that the IDA has received a letter from the City of Lockport, which I'll read into the record.*

*Dated, October 19, 2020.*

*To Susan Langdon, Niagara County Industrial Development Agency, regarding Application for Financial Assistance by Vincent Properties, Inc. 41 Lexington Court, Lockport, New York.*

*Dear Ms. Langdon:*

*The undersigned parties are the Mayor of the City of Lockport, along with the members of its Common Council. The City of Lockport takes great pride in our community and we encourage the development of businesses and industry and also welcomes the associated job opportunities. It further recognizes the support that the IDA has provided the City in attaining these goals.*

*With that being said, we find it necessary to voice our concerns over a pending PILOT application that we feel is not in the best interest of the public. It is our hope that you will consider these concerns when you make a decision on this application.*

*1. Vincent Properties originally came to the City offering a PILOT to the City for a charitable 420-a tax exemption based on their status of being a not-for-profit corporation. Although it is a not-for-profit corporation under New York law, it was denied the exemption because all residents are private-pay. Unless the corporation can be shown to benefit people in need, it does not qualify as a charitable organization. This decision is backed by statutes and several court cases.*

*2. The Court of Appeals has recently addressed the issue of a charitable use in the context of a parking garage operated by a not-for-profit. Greater Jamaica Development Corporation v. New York City Tax Commission, 25 NY 3d 614 (2015) clearly distinguishes between tax exempt status for purposes of federal tax and charitable use under NYRPTL §420(a). Since the operators of Heritage Manor do not accept government subsidies and retain the right to terminate the tenancy of an individual unable to pay the charges, this would not constitute a charitable use.*

*3. The PILOT is based on an assessed value of \$2,453,500, with full value of \$3,361,000 based on an equalization rate of 73%. The City's anticipated 2022 revaluation project will likely result in a noticeable increase based upon projected rental income and a purchase price of \$6,400,000. The flat rate suggested in the proposed PILOT will thus provide an even greater tax advantage after 2022 over the term of the PILOT.*

4. *Cosmetic improvements of only \$250,000 to the facility does not qualify as improving the facility; rather in our opinion, it constitutes general maintenance.*
5. *The facility's intent is to only add two FTE opportunities at minimum to low wage rates.*

*If this project is approved, the City will lose an estimated \$20,000 in revenue in the first year alone. Once our planned 2022 City wide revaluation project is complete we will lose even more revenue. In conclusion, while we encourage new business and development in the City, we feel this project is not in the best interest of our citizens.*

*Very truly yours,*

*Michelle Roman, Mayor  
Mark Devine, Council President and 3<sup>rd</sup> Ward Alderman  
Ellen Schratz, Alderwoman-at-Large  
Joseph Oates, 1<sup>st</sup> Ward Alderman  
Luke Kantor, 2<sup>nd</sup> Ward Alderman  
Kelly Vandemark, 4<sup>th</sup> Ward Alderwoman  
Rick Abbott, 5<sup>th</sup> Ward Alderman*

Susan Langdon: *That concludes the letter from the City of Lockport. I will ask again, does any one wish to make any more comments on this project? Ok, hearing none, it is now 1:55 p.m. and I will adjourn the hearing. Thank you very much for your comments and your attendance.*

**SIGN IN SHEET  
PUBLIC HEARING**

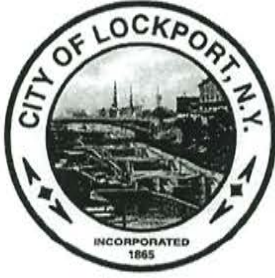
October 19, 2020 at 1:45 p.m.  
remotely at NCIDA offices

regarding:

**Vincent Properties, Inc. and/or Individual(s) or Affiliate(s), Subsidiary(ies), or Entity(ies)  
formed or to be formed on its behalf**

Project Location: 41 Lexington Court and adjacent addresses

<b>Name</b>	<b>Company and/or Address</b>	<b>X box to speak/ comment</b>
Lisa Glenna	NC Real Property Tax	
Rick Abbott	5 <sup>th</sup> Ward Alderman, Lockport	X
Mark Eberhardt	Owner, Heritage Manor	
Joe Enzina	Interested party	



# CITY OF LOCKPORT

One Locks Plaza  
Lockport, New York 14094  
(716) 439-6676  
[www.lockportny.gov](http://www.lockportny.gov)

October 19, 2020

Niagara County Industrial Development Authority

ATTN: Sue Langdon

6311 Inducon Corporate Drive, Suite One

Sanborn, New York 14132

RE: Application for Financial Assistance by Vincent Properties, Inc.  
41 Lexington Court, Lockport, NY

Dear Ms. Langdon:

The undersigned parties are the Mayor of the City of Lockport, along with the members of its Common Council. The City of Lockport takes great pride in our community and we encourage the development of businesses and industry and also welcomes the associated job opportunities. It further recognizes the support that the IDA has provided the City in attaining these goals. With that being said, we find it necessary to voice our concerns over a pending PILOT application that we feel is not in the best interest of the public. It is our hope that you will consider these concerns when you make a decision on this application.

1. Vincent Properties originally came to the City offering a PILOT to the City for a charitable 420-a tax exemption based on their status of being a not-for-profit corporation. Although it is a not-for-profit corporation under New York law, it was denied the exemption because all residents are private-pay. Unless the corporation can be shown to benefit people in need, it does not qualify as a charitable organization. This decision is backed by statutes and several court cases.
2. The Court of Appeals has recently addressed the issue of a charitable use in the context of a parking garage operated by a not-for-profit. *Greater Jamaica Development Corporation v. New York City Tax Commission*, 25 NY 3d 614 (2015) clearly distinguishes between tax exempt status for purposes of federal tax and charitable use under NYRPTL §420(a). Since the operators of Heritage Manor do not accept government subsidies and retain the right to terminate the tenancy of an individual unable to pay the charges, this would not constitute a charitable use.
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Niagara County Industrial Development Agency  
ATTN: Sue Langdon  
October 19, 2020  
Page Two

4. Cosmetic improvements of only \$250,000 to the facility does not qualify as improving the facility; rather in our opinion, it constitutes general maintenance.
5. The facility's intent is to only add two FTE opportunities at minimum to low wage rates.

If this project is approved, the City will lose an estimated \$20,000 in revenue in the first year alone. Once our planned 2022 City wide revaluation project is complete we will lose even more revenue. In conclusion, while we encourage new business and development in the City, we feel this project is not in the best interest of our citizens.

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Luke Kantor, 2<sup>nd</sup> Ward Alderman  
Kelly Vandemark, 4<sup>th</sup> Ward Alderwoman  
Rick Abbott, 5<sup>th</sup> Ward Alderman

EXHIBIT B

617.20  
Appendix B  
Short Environmental Assessment Form

**Instructions for Completing**

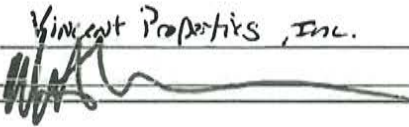
**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: <i>Vincent Properties, Inc.</i>			
Project Location (describe, and attach a location map): <i>Acquisition and Preservation of Heritage Manor &amp; Heritage Estates</i>			
Project Location (describe, and attach a location map): <i>Lexington Ct., City of Lockport, NY</i>			
Brief Description of Proposed Action: <i>Acquisition and continued operation<sup>preservation</sup> of the Heritage Manor and Heritage Estates</i>			
Name of Applicant or Sponsor: <i>Vincent Properties, Inc.</i>		Telephone: <i>585. 719-3342</i>	
		E-Mail: <i>vincent.depaulo.org</i>	
Address: <i>1931 Buffalo Road</i>			
City/PO: <i>Rochester</i>		State: <i>NY</i>	Zip Code: <i>14624</i>
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input checked="" type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: <i>No approval for real estate transfer</i>			NO <input checked="" type="checkbox"/>
			YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		<u><i>36</i></u> acres	
b. Total acreage to be physically disturbed?		<u><i>0</i></u> acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<u><i>±6</i></u> acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			



	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: <u>Proposed action meets the state energy code requirements in place at the time of initial construction</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100 year flood plain?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <i>existing</i> b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <u>Existing stormwater sewer will be utilized</u> <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: <u>No, other than existing facilities</u>	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: <u>Vincent Properties, Inc.</u>	Date: <u>September 3, 2020</u>	
Signature: 		

**Part 2 - Impact Assessment.** The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

NCIDA 4 Sept 2020  
Name of Lead Agency Date

Susan Langdon EO  
Print or Type Name of Responsible Officer in Lead Agency Title of Responsible Officer

[Signature] \_\_\_\_\_  
Signature of Responsible Officer in Lead Agency Signature of Preparer (if different from Responsible Officer)

EXHIBIT C

HERITAGE, LOCKPORT, NY

<u>SBL</u>	<u>Street Address</u>	<u>Approx. SF</u>	<u>Assessed Value</u>
109.20-2-42	5 Lexington Ct	2,500	129,500
109.20-2-30	6 Lexington Ct	2,500	130,600
109.20-2-41	15 Lexington Ct	2,500	129,000
109.20-2-31	16 Lexington Ct	2,500	122,800
109.20-2-32	26 Lexington Ct	2,500	119,700
109.20-2-33	34 Lexington Ct	2,500	118,000
109.20-2-34	44 Lexington Ct	2,500	127,200
109.20-2-35	52 Lexington Ct	2,500	117,600
109.20-2-36	60 Lexington Ct	2,500	126,600
109.20-2-39	65 Lexington Ct.	2,500	125,000
109.20-2-37	72 Lexington Ct	2,500	128,600
109.20-2-38	73 Lexington Ct	2,500	127,600
			<hr/> <hr/> <b>1,502,200</b>
109.20-2-40	41 Lexington Ct	20,000	951,300
		<b>Total</b>	<hr/> <hr/> <b>2,453,500</b>

EXHIBIT D

<u>PILOT Year</u>	<u>School Tax</u>	<u>County and City Tax Year</u>	<u>Total Annual PILOT Payment Amount</u>
Year 1	2021/22	2022	\$80,000.00
Year 2	2022/23	2023	\$81,600.00
Year 3	2023/24	2024	\$83,232.00
Year 4	2024/25	2025	\$84,896.00
Year 5	2025/26	2026	\$86,594.00
Year 6	2026/27	2027	\$88,325.00
Year 7	2027/28	2028	\$90,092.00
Year 8	2028/29	2029	\$91,895.00
Year 9	2029/30	2030	\$93,733.00
Year 10	2030/31	2031	\$95,607.00
Year 11	2031/32	2032	\$97,519.00
Year 12	2032/33	2033	\$99,470.00
Year 13	2033/34	2034	\$101,459.00
Year 14	2034/35	2035	\$103,488.00
Year 15	2035/36	2036	\$105,558.00

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

# **PILOT Agreement**



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

**1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)**Name: **Niagara County Industrial Development Agency**Street: **6311 Inducon Corporate Drive, Suite 1**City: **Sanborn, New York 14132**Telephone No. Day: **(716) 278-8760**

Evening: \_\_\_\_\_

Contact: **Susan C. Langdon**Title: **Executive Director****DESCRIPTION OF PARCEL**

a. Assessment roll description (tax map no./roll year)

see attached Exhibit A

b. Street address: **Lexington Court**c. City, Town or Village: **City of Lockport****2. OCCUPANT (IF OTHER THAN IDA)**

(If more than one occupant attach separate listing)

Name: **Vincent Properties, Inc.**Street: **1931 Buffalo Road**City: **Rochester, New York 14624**Telephone No. Day: **(585) 719-3342**

Evening: \_\_\_\_\_

Contact: **Mark H. Fuller**Title: **President**d. School District: **Lockport City SD**e. County: **Niagara**f. Current assessment: **approx. \$2,453,500**g. Deed to IDA (date recorded; liber and page)  
**Lease Agreement, a memorandum of which was  
 recorded on or about December 24, 2020****4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)**a. Brief description (include property use): **acquisition/renovation of an existing building.**b. Type of construction: **Acquisition/Renovation**c. Square footage: **approx. 20,000**d. Total cost: **approx. \$6,650,000**e. Date construction commenced: **Winter 2021**f. Projected expiration of exemption (i.e.  
 date when property is no longer  
 possessed, controlled, supervised or  
 under the jurisdiction of IDA):  
**December 31, 2036****5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION  
 (Attach copy of the agreement or extract of the terms relating to the project).**a. Formula for payment: **See attached PILOT Agreement**b. Projected expiration date of agreement: **December 31, 2036**

c. Municipal corporations to which payments will be made

d. Person or entity responsible for payment

	<b>Yes</b>	<b>No</b>
County: <b>Niagara</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Town/City: <b>Lockport</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Village: <b>N/A</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
School District: <b>Lockport City SD</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Name: **Jonathan Penna**  
 Title: **Chief Legal Officer**  
 Address: **1931 Buffalo Road**  
**Rochester, NY 14624**

Telephone: (585) 719-3342

e. Is the IDA the owner of the property? Yes/No (circle one)

If "No" identify owner and explain IDA rights or interest in an attached statement.

**Occupant owns property and leases to IDA, IDA then leases property back to the Occupant.**

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

If yes, list the statutory exemption reference and assessment roll year on which granted:

Exemption \_\_\_\_\_ assessment roll year \_\_\_\_\_

7. A copy of this application, including all attachments, has been mailed or delivered on **December** \_\_\_\_, **2020** to the chief executive official of each municipality within which the project is located as indicated in Item 3.

**CERTIFICATION**

I, **Susan C. Langdon**, **Executive Director** of the **NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**


Name

Title

Organization

hereby certify that the information on this application and accompanying papers constitutes a true statement of facts.

December 16, 2020  
Date

  
 \_\_\_\_\_  
 Signature

**FOR USE BY ASSESSOR**

1. Date application filed \_\_\_\_\_

2. Applicable taxable status date \_\_\_\_\_

3a. Agreement (or extract) date \_\_\_\_\_

3b. Projected exemption expiration (year) \_\_\_\_\_

4. Assessed valuation of parcel in first year of exemption \$ \_\_\_\_\_

5. Special assessments and special ad valorem levies for which the parcel is liable:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Assessor's signature



## EXHIBIT A

<b>SBL</b>	<b>Street Address</b>
109.20-2-30	6 Lexington Ct
109.20-2-31	16 Lexington Ct
109.20-2-32	26 Lexington Ct
109.20-2-33	34 Lexington Ct
109.20-2-34	44 Lexington Ct
109.20-2-35	52 Lexington Ct
109.20-2-36	60 Lexington Ct
109.20-2-37	72 Lexington Ct
109.20-2-38	73 Lexington Ct
109.20-2-39	65 Lexington Ct
109.20-2-40	41 Lexington Ct
109.20-2-41	15 Lexington Ct
109.20-2-42	5 Lexington Ct

**NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**AND**

**VINCENT PROPERTIES INC.**

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**PAYMENT-IN-LIEU-OF-TAX AGREEMENT**

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Relating to the Premises located  
on Lexington Court in the City of Lockport,  
Niagara County, New York

Affected Tax Jurisdictions:  
Niagara County  
City of Lockport  
Lockport City School District

**Dated as of December 1, 2020**

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

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT (the "PILOT Agreement"), dated as of the 1<sup>st</sup> day of December, 2020, is by and between the **NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with its offices at 6311 Inducon Corporate Drive, Suite 1, Sanborn, New York 14132 (the "Agency") and **VINCENT PROPERTIES, INC.** a not-for-profit corporation formed and existing under the laws of the State of New York, with offices located at 1931 Buffalo Road, Rochester, New York 14624 (the "Company").

### WITNESSETH:

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

WHEREAS, the Company has requested the Agency's assistance with a certain project (the "Project") consisting of: (A) the acquisition or retention by the Agency of a leasehold interest in an approximately 6.02 acre site as set forth in Exhibit A located on Lexington Court in the City of Lockport, Niagara County, New York (the "Land"), and thirteen (13) existing buildings totaling approximately 50,000 square feet located on the Land, (the "Improvements") comprised of twelve (12) single floor duplex senior apartments, along with one (1) senior assisted living facility; (B) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment" and collectively with the Land and the Improvements, the "Facility"); and

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

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

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

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

Section I - Payment in lieu of Ad Valorem Taxes:

Section 1.1 A. The Agency shall complete and file by the taxable status date (**May 1, 2021**) (the "Taxable Status Date") the New York State Form RP-412-a Application for Real Property Tax Exemption (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act. Subject to the approval and/or processing, as applicable, of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Facility shall be exempt from Real Estate Taxes for the periods set forth in Section 1.3 hereof. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the City, County and School. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are reasonably required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application, and the Agency will reasonably cooperate with such actions as may be required by the Company with respect to obtaining the approval of the Exemption Application. Notwithstanding anything contained herein or in the Leaseback Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any lawful reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes lawfully levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Agency to file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date, or failure to comply with applicable requirements of the GML.

B. Payee. As long as the Agency has fee title to or leasehold or other interest in the Facility, the Company agrees to pay annually to the Affected Tax Jurisdictions as a payment-in-lieu-of-taxes, on or before October 1 of each calendar year for School taxes and on or before January 1 of each calendar year for County and City taxes (collectively, the "Payment Date"), commencing on October 1, 2021 and January 1, 2022, respectively, an amount equal to

the PILOT Payment allocated among the Affected Tax Jurisdictions, all as described on Schedule A attached hereto.

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

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

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

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

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the **2021/2022** School tax year through the **2035/2036** School tax year, and (ii) the **2022** County and City tax year through the **2036** County and City tax year. This PILOT Agreement shall expire on **December 31, 2036**; provided, however, the Company shall pay the **2036/2037** School tax bills and the **2037** County and City tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said tax years. In

no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this PILOT Agreement executed by both parties after any applicable public hearings. Other than an exemption pursuant to RPTL 420-a, the Company agrees that it will not seek any tax exemption for the Facility which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b of the New York Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

## Section II - Special Assessments and Service Charges.

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

## Section III - Transfer of Facility.

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

## Section IV - Assessment Challenges.

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

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

## Section V - Changes in Law.

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

## Section VI - Events of Default and Remedies.

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

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

6.3 Upon the occurrence of an Event of Default hereunder, the liability of the Company hereunder shall be all amounts due pursuant to Section I hereof through, but not including, the date on which the Facility is no longer exempt from Real Estate Taxes together with all other amounts due pursuant to Section 6.2 hereof and clause (a) of Section 7 of the PILOT Mortgage (as hereinafter defined).

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

#### Section VII - Assignment.

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

#### Section VIII – Rights of Mortgagees.

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

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

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

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



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

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

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

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

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

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

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

Section IX -- Miscellaneous.

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

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

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

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

To the Company: Vincent Properties, Inc.  
1931 Buffalo Road  
Rochester, New York 14624  
Attn: Mark H. Fuller, President

With Copy To: Jonathan Penna, Esq.  
Chief Legal Officer  
Vincent Properties, Inc.  
1931 Buffalo Road  
Rochester, New York 14624

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

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

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

9.5 The Company hereby agrees that it shall, as security for its obligations hereunder, grant to the Affected Tax Jurisdictions a mortgage lien on the Facility pursuant to a certain PILOT Mortgage, dated as of December 1, 2020, from the Company and the Agency to the Agency, for the benefit of the Affected Tax Jurisdictions (the "PILOT Mortgage"), which PILOT Mortgage shall constitute a first priority mortgage lien on and security interest in the Facility.

*[Remainder of Page Intentionally Left Blank]*

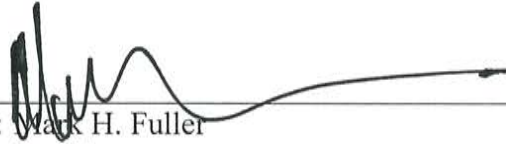
**[Signature Page to PILOT Agreement]**

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

NIAGARA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Name: Susan C. Langdon  
Its: Executive Director

VINCENT PROPERTIES, INC.

By:   
Name: Mark H. Fuller  
Title: President

**SCHEDULE A**

**TO PILOT AGREEMENT, DATED AS OF DECEMBER 1, 2020 BETWEEN  
NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
AND  
VINCENT PROPERTIES, INC.**

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

<b><u>PILOT Year</u></b>	<b><u>School Tax Year</u></b>	<b><u>County and City Tax Year</u></b>	<b><u>Total Annual PILOT Payment Amount</u></b>
Year 1	2021/22	2022	\$80,000.00
Year 2	2022/23	2023	\$81,600.00
Year 3	2023/24	2024	\$83,232.00
Year 4	2024/25	2025	\$84,896.00
Year 5	2025/26	2026	\$86,594.00
Year 6	2026/27	2027	\$88,325.00
Year 7	2027/28	2028	\$90,092.00
Year 8	2028/29	2029	\$91,895.00
Year 9	2029/30	2030	\$93,733.00
Year 10	2030/31	2031	\$95,607.00
Year 11	2031/32	2032	\$97,519.00
Year 12	2032/33	2033	\$99,470.00
Year 13	2033/34	2034	\$101,459.00
Year 14	2034/35	2035	\$103,488.00
Year 15	2035/36	2036	\$105,558.00

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