

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT (the "Agreement"), dated as of November 16, 2017, by and between CR LAND, LLC, a limited liability company duly organized and validly existing under the laws of the State of New York, with an office located at 1915 Vestal Parkway West, Vestal, New York 13850 (the "Company") and the BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public-benefit corporation duly organized and validly existing under the laws of the State of New York, with an office for the transaction of business located at Five South College Drive, Binghamton, New York 13905 (the "Agency"), collectively, the "Parties".

WITNESSETH:

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

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease any or all of its facilities on such terms and conditions as it deems advisable, to issue its bonds for the purpose of carrying out any of its corporate purposes; and, as security for the payment of the principal and redemption price of, and interest on, any such bonds so issued and any agreements made in connection therewith, to pledge the revenues and receipts from its facilities or from the lease thereof; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, Chapter 564 of the Laws of 1970 of the State (collectively, the "Act") created the Broome County Industrial Development Agency (the "Agency"), which is empowered under the Act to undertake the providing, financing and leasing of the project described below; and

WHEREAS, BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency") was created as a public benefit corporation pursuant to and for the purposes specified in Title 1 of Article 18-A of the General Municipal Law; and

WHEREAS, the Company has agreed to a lease/leaseback transaction, on the real property more particularly described on Exhibit "A" attached hereto, to facilitate the acquisition, construction and equipping of a multi-use sports complex located on approximately 5.264 acres of land situate at 1915 Vestal Parkway West in the Town of Vestal, Broome County, New York (the "Project"), and to lease the Project from the Agency; and

WHEREAS, the Agency will lease the Project to the Company for a term not to exceed ten (10) years; and

WHEREAS, the Agency is exempt from the payment of taxes and assessments imposed upon real property, and, as a further condition related to the acquisition of the Project, the Company has agreed that, notwithstanding such exemption, the Company will nevertheless make payments to the Town of Vestal (the "Town"), the Vestal Central School District (the "School District") and the County of Broome (the "County") while occupying the Project in lieu of general tax levies.

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed as follows:

1. Pursuant to Section 874 of the General Municipal Law and Section 412-a of the Real Property Tax Law, the Parties hereto understand that, upon acquisition of the Project by the Agency and the filing of an Equalization and Assessment Form RP-412-a (the "Exemption

Form”) with respect to the Project, and for so long thereafter as the Agency shall lease the Project, the Project shall be assessed by the various taxing entities having jurisdiction over the Project, including, without limitation, the Town, the School District and the County as exempt on their respective assessment rolls prepared subsequent to the lease by the Agency of the Project and the filing of the Exemption Form. The Parties hereto understand that the Project shall not be entitled to such exempt status on any tax roll until the first tax year following the tax status date subsequent to the date upon which the Agency became the leaseholder of the Project and an Exemption Form is filed. The Company shall be required to pay all taxes and assessments lawfully levied and/or assessed against the Project, including taxes and assessments levied for the current tax year and all subsequent years until the Project is entitled to exempt status on the tax roll. The Agency will cooperate with the Company to obtain and preserve the tax exempt status of the Project, including the preparation and filing of the Exemption Form.

2. During the period the Project is leased by the Agency pursuant to a lease agreement with the Company, the Company agrees to pay to the Town, the County and the School District the following percentages of taxes that would otherwise be levied on the real property located at 1915 Vestal Parkway West, Town of Vestal, Broome County, New York, more particularly described on Exhibit “A” attached hereto, if the same was subject to real property taxation:

<u>YEARS</u>	<u>PILOT PERCENTAGE OF ACTUAL TAXES</u>
1-5	50%
6-10	75%
11 (and all years thereafter)	100%

3. The Town, the County, and the School District shall separately bill the Company for each in-lieu-of-tax payment due hereunder. For the purposes of this Agreement, the term

"Timely Payment" shall be defined as payment made within thirty (30) days after receipt by the Company of a written bill demanding payment.

4. Should the Company use the Project for other than a multi-use sports complex or allied purposes such as defined in Article 18-A of the General Municipal Law, fail to retain substantially the number of jobs anticipated by the project, or acquire title during the term of this Agreement to the leased Project from the Agency, this Agreement shall terminate immediately and the Premises shall be returned to the non-exempt portion of the tax roll and be subject to taxation thereafter, including any portion of a tax year not otherwise covered by this Agreement.

5. If any default shall be made in the payment referred to in Paragraph 2, supra, the Company hereby agrees to pay the same to the extent above specified:

A. Without requiring any notice of non-payment or of default to the Company, the Agency, or to any other person; and

B. Without proof of demand.

6. The Parties hereto understand that the tax exemption extended to the Agency by Section 874 of the General Municipal Law and Section 412-A of the Real Property Tax Law does not entitle the Agency to an exemption from special assessments and special ad valorem levies such as, but without limitation, charges for metered water and sewer rent. The Company hereby agrees to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Project.

7. Pursuant to Section 858 (15) of the General Municipal Law, the Agency agrees to give the Town, the School District and the County a copy of this PILOT Agreement within fifteen (15) days of the execution and delivery hereof, together with a request that a copy thereof be given to the appropriate officer or officers with respect to each taxing jurisdiction responsible for preparing the tax rolls for said jurisdiction, together with a request that said officer or officers submit to the Company and the appropriate receiver of taxes periodic statements specifying the

amount and due date or dates of the payments due to each hereunder. Such periodic statements to be submitted to the Company at approximately the times that tax bills are mailed by such jurisdictions.

8. The Company agrees to pay the amounts due hereunder to each particular taxing jurisdiction in any calendar year to the appropriate receiver of taxes within the period that such taxing entity allows the payment of taxes levied in such calendar year without penalty. The Company shall be entitled to receive receipts for such payments.

9. Pursuant to Section 874(5) of the General Municipal Law, if the Company shall fail to make any payment required by this PILOT Agreement when due, the Company shall pay the same, together with a late-payment penalty equal to five (5%) percent of the amount due. If the Company shall remain in default beyond the first month after such payment is due, the Company shall hereafter pay a late-payment penalty of one (1%) percent per month for each month, or part thereof, that the payment due thereunder is delinquent beyond the first month plus interest thereon, to the extent permitted by law, at the greater of (a) one (1%) percent per month, or (b) the rate per annum which would have been payable if such amount were delinquent taxes, until so paid in full.

10. Pursuant to Section 874(6) of the General Municipal Law, if the Company should default in performing any of its obligations, covenants or agreements under this PILOT Agreement and the Agency or any taxing jurisdiction should employ attorneys or incur other expenses for the collection of any amounts payable hereunder, or for the enforcement or performance or observation of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefore, pay to the Agency or such taxing jurisdiction, as the case may be, not only the amounts adjudicated due hereunder, together with the late-payment penalty and interest due thereon, but also reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred

whether or not an action is commenced.

11. Notwithstanding the foregoing, the Agency reserves the right to terminate, modify, or recapture any benefits provided to the Company pursuant to this PILOT Agreement, as well as any other benefit provided to the Company, in accordance with the policy of the Agency set forth in Exhibit "B" attached hereto.

12. No remedy herein conferred upon or reserved to the Agency or any taxing jurisdiction is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this PILOT Agreement or now and hereafter existing at law or in equity or by statute. No delay or admission in exercising any such right or power accruing upon a default hereunder shall impair any such right or power or be construed as a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

13. All notices, demands or communications required to be given under this Agreement shall be forwarded simultaneously by certified mail or Federal Express or other similar overnight delivery service, to the respective addresses of the Parties hereinafter set forth or to such other place(s) as any of the Parties hereto may, from time to time, designate by written notice to the other:

To the Agency: Broome County Industrial Development Agency  
Five South College Drive  
Binghamton, New York 13905

Attn: Executive Director

With a Copy to: Joseph B. Meagher, Esq.  
Thomas, Collison & Meagher  
1201 Monroe Street  
P.O. Box 329  
Endicott, New York 13761-0329

To the Company: CR Land, LLC  
1915 Vestal Parkway West  
Vestal, New York 13850  
Attn: Christopher T. Riley


with a copy to: Maureen A. Mangan, Esq.  
Leasure, Gow, Munk & Rizzuto  
101 Jefferson Avenue  
Endicott, New York 13760

14. The Town, the County, the School District, the Agency and the Company as used herein shall include their successors and assigns. The terms of this Agreement shall inure to the benefit of, and shall be binding upon, any future owners of the Project and the Company's successors and assigns.

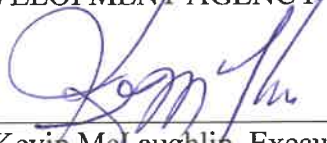
15. This Agreement shall remain in effect until termination or expiration of the Leaseback Agreement from the Agency to the Company which, by its terms, expires February 1, 2028.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be duly executed the date set forth hereinabove.

CR LAND, LLC

By:   
Christopher T. Riley, Sole Member

BROOME COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Kevin McLaughlin, Executive Director

STATE OF NEW YORK :  
: ss.:  
COUNTY OF BROOME :

On this 16<sup>th</sup> day of November, 2017, before me, the undersigned, personally appeared CHRISTOPHER T. RILEY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
MAUREEN A. MANGAN  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02MA6075802  
Notary Public Qualified in Broome County  
My Commission Expires June 10, 20<sup>18</sup>

STATE OF NEW YORK :  
: ss.:  
COUNTY OF BROOME :

On this 16<sup>th</sup> day of November, 2017, before me, the undersigned, personally appeared KEVIN McLAUGHLIN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
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Notary Public

CARY H. COLLISON  
Notary Public, State of New York  
No. 02003923499  
Qualified in Onondaga County  
Commission Expires 02/07/20<sup>18</sup>



EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE TOWN OF VESTAL, COUNTY OF BROOME AND STATE OF NEW YORK DESCRIBED AS FOLLOWS:

BEGINNING at a Mag Spike set in pavement in the south boundary of NYS Route 434 which lies 0.25 mile easterly from the east boundary of Owego Road.

THENCE N 64° 10'00" E, along the south boundary of NYS Route 434 182.02 feet to a 3/4" rebar set with a cap.

THENCE N 65°52'00" E, 263.88 feet along the south boundary of NYS Route 434 to a 3/4" rebar set with a cap.

THENCE S 24°08'00" E, 568.39 feet through lands of the grantor to a 3/4" rebar set with a cap.

THENCE S 65°52'00" W, 250.00 feet through lands of the grantor to a 1/4" rebar set with a cap.

THENCE N 24°08'00" W, 65.20 feet through lands of the grantor to a 3/4" rebar set with a cap.

THENCE N 72°45'46" W, 310.37 feet through lands of the grantor to a 3/4" rebar set with a cap.

THENCE N 16°54'36" W, 295.00 feet through lands of the grantor to the Point of Beginning.

CONTAINING 5.264 acres of land as shown on a map for Vista Square, Inc. by Williams & Edsall Land Surveyors, P.C. dated May 24, 2017.

TOGETHER WITH a Right of Way for ingress and egress to the premises hereinabove conveyed over an existing asphalt driveway partially located on the remaining lands of Grantor, in the Town of Vestal, County of Broome and State of New York, bounded and described as follows:

Beginning at a Mag Spike set in the pavement in the south boundary of NYS Route 434 which lies .25 mile easterly from the east boundary of Owego Road;

Thence S 64° 10' 00" W, a distance of 18.22 feet along the south boundary of NYS Route 434;

Thence S 24° 08' 00" E, a distance of 209.35 feet;

Thence at a right angle a distance of 18 feet, to the west boundary of the premises hereinabove conveyed;

Thence N 24° 08' 00" W a distance of 212.17 feet, to the Point or Place of Beginning. Said Right of Way area being the westerly one half, more or less, of an existing asphalt drive.

SUBJECT TO a Right of Way for ingress and egress over an existing asphalt driveway partially located on the premises hereinabove conveyed, to the remaining lands of Grantor, in the Town of Vestal, County of Broome and State of New York, bounded and described as follows:

EXHIBIT "A" (Continued)

Beginning at a Mag Spike set in the pavement in the south boundary of NYS Route 434 which lies .25 mile easterly from the east boundary of Owego Road;

Thence N 64° 10' 00" E, a distance of 18.22 feet along the south boundary of NYS Route 434;

Thence S 24° 08' 00" W, a distance of 215.00 feet;

Thence at a right angle a distance of 18 feet, to the west boundary of the premises hereinabove conveyed;

Thence N 24° 08' 00" W a distance of 212.17 feet, to the Point or Place of Beginning. Said Right of Way area being the easterly one half, more or less, of an existing asphalt drive.

The Rights of Way herein described are shown on a survey map of Williams & Edsall, Land Surveyors, dated November 3, 2017, and are over an existing asphalt drive which is partially on the lands herein conveyed to Grantee and partially on the lands retained by Grantor, together forming a 36' wide driveway (more or less) for ingress and egress for Grantee and for remaining lands of Grantor to the west, the terms of shared access for which are set forth in a Shared Access Agreement to be filed simultaneously with this deed conveyance.

EXHIBIT "B"

(SEE ATTACHED AGENCY POLICY FOR  
TERMINATION, MODIFICATION AND/OR RECAPTURE OF AGENCY BENEFITS)

**BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
POLICY FOR TERMINATION, MODIFICATION  
AND/OR RECAPTURE OF AGENCY BENEFITS**

The goal of this Policy is to establish and provide a procedure as required by Section 875 of the New York State General Municipal Law for the termination, modification and/or recapture of Broome County Industrial Development Agency (the “Agency”) benefits provided to an applicant in order to induce such applicant to undertake a project in Broome County. For purposes of this policy, Agency benefits shall include any or all of the following:

- (i) exemptions from New York State and local sales and use tax;
- (ii) an exemption from the New York State mortgage recording tax; and/or
- (iii) an abatement from real property taxes provided through a payment-in-lieu-of-tax (“PILOT”) Agreement.

The Agency reserves the right to terminate, modify, or recapture Agency benefits if :

- (i) an applicant or its sub-agency (if any) authorized to make purchases for the benefit of the project is not entitled to the sales and use tax exemption benefits;
- (ii) sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the applicant or its sub-agents;
- (iii) sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the project;
- (iv) the applicant has made material, false, or misleading statements in its application for financial assistance;
- (v) the applicant has committed a material violation of the terms and conditions of a Project Agreement; and/or
- (vi) there is a material shortfall in job creation and retention projections as set forth in its application.

Upon the occurrence of any of the above conditions, the Agency Board may, upon

recommendation of the Executive Director, terminate, modify and/or recapture the Agency benefits provided to a specific project. Prior to undertaking such action, the Agency shall give written notice of its intention to terminate, modify and/or recapture Agency benefits to the applicant specifying the reasons why the Agency is considering such action. The applicant shall have twenty (20) days to respond to the Agency, either in writing or in person, providing such information and documentation as it deems appropriate for the Board to consider prior to making its decision. All such recaptured Agency benefits shall be redistributed to the appropriately affected taxing jurisdictions unless agreed to otherwise by such jurisdictions.

Notwithstanding the foregoing, the Agency retains the right to terminate Agency benefits as otherwise provided in project transaction documents including, but not limited to, failure of the applicant to make timely PILOT payments, to provide required reports, or to cooperate with Agency personnel in providing data regarding project progress.