

**Final Authorizing Resolution
Central Utica Building, LLC Facility**

Transcript Document No. []

Date: March 3, 2022

At a meeting of the Oneida County Industrial Development Agency (the "Agency") held at 584 Phoenix Drive, Rome, New York 13441 at 8:00 a.m. on the 3rd day of March 2022, the following members of the Agency were:

Members Present: David Grow, Michael Fitzgerald; Kirk Hinman, Steve Zogby.

Members Present: WebEx: Mary Faith Messenger; Ferris Betrus, Gene Quadraro.

EDGE Staff Present: Shawna Papale, Steven DiMeo, Bill Van Shufflin, Mark Kaucher, Tim Fitzgerald, Laura Cohen

EDGE Staff Present: WebEx: Maureen Carney

Other Attendees: Rome Mayor Jackie Izzo, Paul Goldman, as special counsel to the OCIDA; John Switzer, SSC Kirkland LLC

Other Attendees: WebEx: Linda Romano & Laura Ruberto, Bond, Schoeneck & King; Mark Levitt & Jenna Peppenelli, Levitt & Gordon; Patrick Donnelly, Brown Duke & Fogel, P.C.; Genevieve Trigg, Tim Julian.

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to proposed financial assistance to Central Utica Building, LLC.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Voting Nay

David Grow
L. Michael Fitzgerald
Ferris Betrus
Kirk Hinman
Mary Faith Messenger
Eugene Quadraro
Stephen Zogby

RESOLUTION AUTHORIZING THE AGENCY TO EXECUTE THE LEASE AGREEMENT, THE LEASEBACK AGREEMENT, THE RECAPTURE AGREEMENT, THE ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT, THE LOAN DOCUMENTS AND RELATED DOCUMENTS WITH RESPECT TO THE CENTRAL UTICA BUILDING, LLC FACILITY LOCATED IN THE CITY OF UTICA, ONEIDA COUNTY, NEW YORK AND APPROVING FINANCIAL ASSISTANCE.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 372 of the Laws of 1970 of the State of New York (collectively, the "Act"), the Agency was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, Central Utica Building, LLC (the "Company") has requested that the Agency provide certain financial assistance, consisting of exemptions from mortgage recording taxes and exemptions from sales and use taxes (collectively, the "Financial Assistance"), for a project (the "Project") consisting of construction of a 94,000± square foot state-of-the-art medical office building and appurtenant facilities including parking areas and all infrastructure, utilities and amenities to support the same (collectively, the "Improvements") situated on parcels of land measuring 2.90± acres in the aggregate adjacent to the new Wynn Hospital (the "Wynn Hospital") located at the Corner of State and Columbia Streets, City of Utica, Oneida County, New York (the "Land") and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of providing a seamless and integrated health care delivery system together with the Wynn Hospital, and to enhance and expand the delivery of health care services to the community (the Land, the Improvements and the Equipment are referred to collectively as the "Facility"); and

WHEREAS, Mohawk Valley Health System ("MVHS") owns three of the parcels comprising the Land and will ground lease the same to the Company pursuant to a Ground Lease (the "Ground Lease") with a term of 99 years; and

WHEREAS, to accommodate the parking requirements for the Facility, the Company must acquire an interest in the property located at 411 Columbia Street (the "O'Brien Parcel") in order for the Project to proceed; and

WHEREAS, the Agency will acquire a leasehold interest in the Facility pursuant to a Lease Agreement from the Company to the Agency (the "Lease Agreement") and lease the Facility back to the Company pursuant to a Leaseback Agreement from the Agency to the Company (the "Leaseback Agreement"); and

WHEREAS, the Company will sublease a 20,000± square foot portion of the Facility (the "CNYC Facility") to Central New York Cardiology, P.C. (the "CNYC Sublessee") for its operation pursuant to a sublease agreement (the "CNYC Sublease Agreement"), for the purpose of performing interventional cardiology services at the Wynn Hospital and to take cardiology call and provide cardiology services to patients admitted to the Wynn Hospital; and

WHEREAS, the Company will sublease an 18,000± square foot portion of the Facility (the "MVASC Facility") to Mohawk Valley ASC, LLC (the "MVASC Sublessee") for its operation pursuant to a sublease agreement (the "MVASC Sublease Agreement"), for the purpose of operating an Article 28 licensed, Medicare certified multi-specialty ambulatory surgery center with six operating rooms; and

WHEREAS, the Company will sublease other portions of the Facility to MVHS and other medical practices whose physicians practice in, and need access to, the Wynn Hospital, and to other commercial and/or retail tenants to provide complementary services (such sublessees, together with the CNYC Sublessee and the MVASC Sublessee, are referred to collectively as the “Sublessees”); and

WHEREAS, the Company intends to finance a portion of the costs of the Project by securing from a lender to be identified (the “Bank”) one or more loans in the aggregate principal amount not to exceed \$17,085,000.00, to be secured by one or more mortgages and/or other documents deemed necessary by the Bank to secure its interest (collectively, the “Loan Documents”); and

WHEREAS, the Agency by resolution duly adopted on November 19, 2021 as amended on December 17, 2021 (collectively, the “Inducement Resolution”) decided to proceed under the provisions of the Act to lease the Facility and directed that a public hearing be held and enter into the Lease Agreement and Leaseback Agreement; and

WHEREAS, the Agency conducted public hearings on December 10, 2021 and January 18, 2022 and has received all comments submitted with respect to the Financial Assistance and the nature and location of the Facility; and

WHEREAS, the value of the Financial Assistance is described below:

- Sales and use tax exemption estimated at \$1,820,000
- Mortgage tax exemption estimated at \$128,138

WHEREAS, the Financial Assistance is consistent with the Agency’s Uniform Tax Exemption Policy (the “Policy”); and

WHEREAS, based on information provided by the Company, the Facility constitutes a “retail facility” as said term is defined in the Act; and

WHEREAS, by a Statement of Findings adopted January 21, 2022, the Agency found that (1) the Facility is located in a “highly distressed area,” as such term is defined in Section 854(18) of the General Municipal Law; and (2) the Project will preserve permanent, private sector jobs in the State of New York and thereby serve the public purposes of the Act, and the Agency determined to undertake the Project as requested by the Company; and

WHEREAS, pursuant to the Act and based on the findings of the Agency set forth in the Statement of Findings, the Oneida County Executive confirmed the proposed action of the Agency with respect to the Facility; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the Project and the Agency’s leasehold interest in the Facility; and

NOW, THEREFORE, BE IT RESOLVED by the Oneida County Industrial Development Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

(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 Facility constitutes a “project”, as such term is defined in the Act; and

(c) The acquisition, construction and equipping of the Facility, the leasing of the Facility to the Company and the Agency’s Financial Assistance with respect thereto, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Oneida County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The acquisition, construction, equipping and financing of the Facility is reasonably necessary to induce the Company, the CNYC Sublessee or the MVASC Sublessee to maintain and expand their respective business operations in the State of New York; and

(e) Based upon representations of the Company and Company's Counsel, the Facility conforms (or will conform) with the local zoning laws and planning regulations of Oneida County and all regional and local land use plans for the area in which the Facility is located; and

(f) The SEQRA findings adopted by the Agency on January 21, 2022 encompassed the actions to be undertaken by this resolution and no changes have been made since that time to the proposed action that would create new or increased adverse environmental impacts; and

(g) It is desirable and in the public interest for the Agency to undertake the Project; and

(h) The Lease Agreement is an effective instrument whereby the Company grants the Agency a leasehold interest in the Facility; and

(i) The Leaseback Agreement is an effective instrument whereby the Agency leases the Facility back to the Company; and

(j) The Environmental Compliance and Indemnification Agreement (the “Environmental Compliance and Indemnification Agreement”) between the Company and the Agency will be an effective instrument whereby the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will indemnify and hold harmless the Agency for all liability under all such Environmental Laws; and

(l) The Job Creation and Recapture Agreement (the “Recapture Agreement”) between the Company and the Agency will be an effective instrument whereby the Company agrees that the Financial Assistance is conditioned upon maintaining certain employment levels as a result of the Project; and

(m) The Loan Documents will be effective instruments whereby the Agency grants to the Bank a security interest in the Facility.

Section 2. The Agency makes the following additional findings with respect to the Facility:

(a) The IDA views the Wynn Hospital as being a lynchpin to the overall economic development of Oneida County.

(b) The facility is proximately located to the major access points in Oneida County which will facilitate the delivery of health care to its residents.

(c) There is a need to improve accessibility and availability of health care by attracting specialists and providing services that otherwise would not be available to the community.

(d) New York State Department of Health (NYSDOH) awarded MVHS a \$300 million Health Care Facility Transformation Grant to apply towards the Wynn Hospital project which plan included independent, privately owned medical office building and parking.

(e) The CUB facility has been an integral part of the Wynn Hospital project since its earliest disclosure and a medical office building such as that proposed by CUB was expressly referenced in the SEQF Findings Statement issued by the City of Utica Planning Board, and the success of the CUB facility is necessary for Wynn Hospital to meet its goals under the NYSDOH Grant.

(f) Mohawk Valley ASC, LLC (MVASC) is a key occupant of the CUB Facility, subleasing 18,000± sf for the purpose of operating an Article 28 licensed, Medicare certified multi-specialty ambulatory surgery center with six operating rooms.

(g) Wynn Hospital's proposal to deliver first-rate healthcare at the new campus is dependent upon MVASC providing these 6 operating rooms to supplement the 14 operating rooms at the Wynn Hospital. The 6 operating rooms must be located adjacent to the Wynn Hospital campus in order for it to be seamless and successful to reduce travel time for the doctors and staff which will lead to more efficient delivery of health care to the residents of Oneida County.

(h) The MVASC operating rooms must be operational prior to opening the Wynn Hospital.

(i) The MVASC will provide better patient care by separating ambulatory surgery needs and efficiency from acute care through better scheduling, no trauma disruptions and lower costs for self-pay patients.

(j) Central New York Cardiology, P.C. (CNYC) is a second key occupant of the CUB Facility, subleasing 20,000± sf for the purpose of performing interventional cardiology services at the Wynn Hospital and to take cardiology call and provide cardiology services to patients admitted to the Wynn Hospital.

(k) CNYC performs invasive cardiology, which benefits patients by reducing hospital time and risk.

(l) The American College of Cardiology recently designated Wynn Hospital as a “Heart Center,” the first in Central New York. In order to sustain this designation and provide first line cardiac care, Wynn Hospital requires close proximity of a complete team of cardiac surgeons and invasive cardiologists, making the CNYC a vital component to the CUB project and the success of Wynn Hospital.

(m) Aside from major tenants MVASC and CNYC, other portions of the Facility will house radiology, ultrasound and PET scan facilities as well as other medical practices whose physicians practice in, and need access to, the Wynn Hospital, and to other commercial and/or retail tenants to provide complementary services. While occupying a minority of the CUB facility, all of these services are necessary for Wynn Hospital to deliver the level of care promised in the NYS Grant Application.

Section 2. In consequence of the foregoing, the Agency hereby determines to: (i) acquire a leasehold interest in the Facility pursuant to the Lease Agreement, (ii) execute, deliver and perform the Lease Agreement, (iii) lease the Facility back to the Company pursuant to the Leaseback Agreement, (iv) execute, deliver and perform the Leaseback Agreement, (v) execute, deliver and perform the Recapture Agreement, (vi) execute and deliver the Environmental Compliance and Indemnification Agreement, (vii) execute, deliver and perform the Loan Documents, and (viii) provide the Financial Assistance to the Company in support of the Project, all subject to satisfaction of the following conditions:

(a) the Company acquiring an interest in the O’Brien Parcel, either through fee ownership or a land lease for a minimum term of twenty years; and

(b) the Company and the CNYC Sublessee executing the CNYC Sublease for a minimum term of ten (10) years and minimum 20,000 square feet; and

(c) the Company and the MVASC Sublessee executing the MVASC Sublease for a minimum term of ten (10) years and minimum 18,000 square feet.

Section 3. Subject to satisfaction of the conditions described in Section 2, the Agency is hereby authorized to accept a leasehold interest in the real property described in Exhibit A to the Lease Agreement and the personal property described in Exhibit B to the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 4. The form and substance of the Lease Agreement, the Leaseback Agreement, the Environmental Compliance and Indemnification Agreement and the Recapture Agreement (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved. The form and substance of the Loan Documents are hereby approved, subject to the inclusion of the Agency’s standard financing provisions and subject to counsel review.

Section 5.

(a) The Chairman, Vice Chairman, Secretary or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Lease Agreement, the Leaseback Agreement, the Environmental Compliance and Indemnification Agreement, the

Recapture Agreement and the Loan Documents, all in substantially the forms thereof presented to or approved by this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Secretary or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution, inclusive of the Loan Documents (hereinafter collectively called the "Closing Documents"). The execution thereof by the Chairman, Vice Chairman, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Vice Chairman, Secretary or member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Leaseback Agreement).

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 or provided for by the provisions of the Closing Documents, and to execute and deliver all such additional certificates, instruments and documents, 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 resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Closing Documents binding upon the Agency.

Section 7. This resolution shall take effect immediately.

[end of resolution]

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

I, the undersigned Secretary of the Oneida County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Agency, including the resolutions contained therein, held on the 3rd day of March 2022 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Lease Agreement, the Leaseback Agreement, the Environmental Compliance and Indemnification Agreement, the Recapture Agreement and the Loan Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of this _____ day of _____ 2022.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Shawna M. Papale, Secretary