DETERMINATION AND FINDINGS OF THE ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY IN CONNECTION WITH THE PROPOSED ACQUISITION OF REAL PROPERTY

FACTS

1. On May 7, 2018, the City of Utica Planning Board (the "Planning Board") declared itself the lead agency for the State Environmental Quality Review Act ("SEQRA") review of environmental impacts associated with the certain Integrated Health Campus (the "IHC") project in Downtown Utica.

2. The Mohawk Valley Health Systems ("MVHS") proposed the development of the IHC as part of the consolidation of its two existing hospitals in the City of Utica being Faxton St. Luke's Healthcare ("FSLH") and St. Elizabeth Medical Center ("SEMC").

3. The IHC was proposed to combine the services provided at FSLH and SEMC into a single new and up to date hospital complex with an approximately 670,000± SF hospital, central utility plant, parking facilities (one municipal garage and multiple surface lots), a medical office building (by private developer), campus grounds, utility/pedestrian bridge (over Columbia Street) and helipad.

4. The IHC was identified as a Type I action under SEQRA.

5. The Planning Board declared its intent to serve as the Lead Agency under SEQRA and sent notice of such intent to all other involved and/or interested agencies (as these terms are defined under SEQRA), including the Oneida County Industrial Development Agency ("OCIDA").

6. The Planning Board became the Lead Agency without any opposition.

7. On or about December 6, 2018, the Planning Board held a public hearing on the draft environmental impact statement for the IHC.

8. On or about March 21, 2019, the Planning Board acting in its capacity as the lead agency resolved to accept the Final Environmental Impact Statement ("FEIS") for the IHC.

9. On or about April 18, 2019, the Planning Board approved a certain Planning Board Resolution for Case No. 05-18 which approved the certain Findings Statement dated April 30, 2019 for the IHC project.

10. Figure 3 of the FEIS showed the proposed development of the IHC with surface parking lots immediately behind the proposed main hospital building to be constructed in the area bounded to the north by Columbia Street and to the east by State Street (See **Exhibit "1"** attached hereto).

11. Figure 3 of the FEIS (attached as **Exhibit "1"**) hereto reflected that a medical office building would be developed immediately behind the main hospital building on Columbia Street.

12. Figure 3 – the FEIS (attached as **Exhibit "1"** hereto) reflected that the property known as 411 Columbia Street, City of Utica, Oneida County, New York a/k/a Section 318.41, Block 2, Lot 38 (hereinafter called the "O'Brien Property") would be used as a surface parking lot for the IHC.

13. On or about November 12, 2021, the Central Utica Building LLC, a New York limited liability company ("CUB"), applied to the OCIDA for financial assistance and requested that the OCIDA undertake a project consisting of: (a) the construction of a certain approximately 94,000± SF medical office building with a fully licensed six (6) suite ambulatory surgery center adjacent to and within the footprint of the new Wynn Hospital of the MVHS at 601 State Street (northeast corner of State Street and Columbia Street) (the "CUB MOB") and (b) the provision of financial assistance in form of an exemption from sales and use taxes for the CUB MOB. The acquisition of the certain property located at 411 Columbia Street, City of Utica, Oneida County (SBL No.: 318.41-2-38) (the "O'Brien Property") was represented by CUB as being a required component of the property assemblage needed to accommodate the parking requirements for CUB MOB.

14. An aerial photograph of the O'Brien Property is attached as part of **Exhibit "2"** and Figure 2 of the FEIS showing the O'Brien Property is attached hereto as **Exhibit "2"**.

15. On January 14, 2022, CUB represented that it was unable to obtain ownership or control of the O'Brien Property and requested that the OCIDA initiate proceedings under the Eminent Domain Procedures Law of New York State (the "EDPL") to acquire the O'Brien Property (the "Notice") (**Exhibit "3"**). The O'Brien Property is cross hatched on the map attached as page 3 of **Exhibit "3"**,

16. Prior to the receipt of the Notice, the OCIDA received notice that the O'Brien Property was subject to a certain purchase and sale contract with Bowers Development, LLC, a New York limited liability company having an office at 6308 Fly Road, East Syracuse, New York ("Bowers").

17. On or about February 2, 2022, the OCIDA issued its Notice of a Public Hearing, pursuant to the EDPL, stating that a public hearing was scheduled for February 23, 2022 at 9:00 AM at the Oneida County Legislative Chambers, Oneida County Office Building, 10th Floor, 800 Park Avenue, City of Utica, Oneida County, New York (the "Public Hearing") (**Exhibit "4"**).

18. Pursuant to Article 2 of the EDPL, on February 3, 2022, the OCIDA provided timely notice of the Public Hearing as required by EDPL §201 upon the owner of the O'Brien Property (the "O'Brien Notice") being J.P. O'Brien Plumbing and Heating Supply, Inc. now known as Rome Plumbing & Heating Supply Co. Inc. ("O'Brien") (**Exhibit "4"**).

19. Pursuant to Article 2 of the EDPL, on February 3, 2022, the OCIDA provided timely notice of the Public Hearing as required by EDPL §201 upon Bowers as the contract vendee of the O'Brien Property (the "Bowers Notice") (**Exhibit "4"**).

20. On or about February 3, 2022, the Attorney for the OCIDA called the Attorney for Bowers to advise him that the Public Hearing had been scheduled and to inquire if he wanted to accept service of the Bowers Notice for Bowers or whether he wanted the Bowers Notice to be sent directly to Bowers. The Attorney for Bowers requested that the Bowers Notice be sent directly to Bowers which occurred with the direct mailing of the Bowers Notice to Bowers (**Exhibit "4"**).

21. In addition, on February 4, 2022, the Attorney for the OCIDA provided the Attorney for Bowers by email with a courtesy copy of the letter to O'Brien and Bowers on the scheduled date for the Public Hearing (**Exhibit "5"**).

22. Pursuant to EDPL §202(A), the Notice of Public Hearing was published in The Observer Dispatch for five successive issues commencing on February 7, 2022 and continuing each day thereafter through and including February 11, 2022 (**Exhibit "4"**).

23. Pursuant to EDPL §202(C)(1), the Notice of Public Hearing was mailed and served on both O'Brien and Bowers on February 3, 2022 by certified mail return receipt requested service, more than ten (10) days prior to the Public Hearing.

24. The delivery of the Notice of Public Hearing to O'Brien occurred on February 7, 2022 (**Exhibit "4"**).

25. The delivery of the Notice of Public Hearing to Bowers occurred on February 7, 2022 (**Exhibit "4"**).

26. In compliance with EDPL §203, the OCIDA conducted the Public Hearing on February 23, 2022 at 9.00 AM at the Oneida County Legislative Chambers, Oneida County Office Building, 10th Floor, 800 Park Avenue, City of Utica, Oneida County, New York (**Exhibit "6"**).

27. A recording of the Public Hearing was made available for review on the website of OCIDA and at the Office of OCIDA and the Oneida County Clerk (**Exhibit "6"**).

28. A transcript of the Public Hearing along with all written statements submitted to the OCIDA before and after the Public Hearing was made available for public inspection at the offices of the OCIDA (**Exhibit "6"**).

29. The transcript of the Public Hearing along with all written statements submitted to the OCIDA before and after the Public Hearing was placed with the Office of the Oneida County Clerk on March 16, 2022 (**Exhibit "7"**).

On or about March 17, 2022, the OCIDA established link on its website to the Record of the CUB Public Hearing which has been supplemented with additional documents. The original link is at:

https://www.mvedge.org/wp-content/uploads/2022/03/Record-of-CUB-Hearing-and-Comments-sm.pdf

30. At the Public Hearing representatives of CUB, MVHS, the Attorney for Bowers and a principal of Bowers spoke about the taking of the O'Brien Property.

31. Written comments were submitted from Brown Duke & Fogel, P.C. dated February 22, 2022 ("BDF I"), March 2, 2022 ("BDF II") and March 30, 2022 ("BDF III") on behalf of Bowers, Michael Galime, dated March 2, 2022, Brett Truett, dated February 28, 2022, Katie Aiello, dated March 2, 2022, Gail Coopy, dated March 2, 2022, James O'Brien III, dated February 22, 2022, MVHS, dated February 23, 2022, a member of the Oneida County Board of Legislature, dated March 1, 2022, Mark Harf, dated February 23, 2022, Robert Sullivan, dated March 29, 2022, Lily Werenczak, dated March 29, 2022, Robert Lott, dated March 30, 2022, and CUB, dated March 1, 2022 and others listed herein.

32. The transcript of the Public Hearing was not produced until March 11, 2022 which delayed the assembly and filing of the entire record of the Public Hearing at the Office of the Oneida County Clerk until March 16, 2022. Accordingly, the OCIDA provided notice of the filing by certified mail return receipt which notice provided that the OCIDA would accept additional comment until March 30, 2022 at 5:00 PM.

33. The OCIDA also published a notice that the record was available for inspection at both Office of the OCIDA and the Office of the Oneida County Clerk and that further public comment could be made on or before March 30, 2022 at 5:00 PM.

34. The plan set provided by CUB dated January 2022 (C-003) for the CUB MOB reflected the configuration of the O'Brien Property as containing approximately 1.09± acres with existing conditions of a one-story masonry frame building.

35. The plan set provided by CUB dated January 2022 (C-101) for the CUB MOB shows the proposed use of the O'Brien Property as surface parking.

36. The plan set provided by CUB for the CUB MOB does not reflect that the parking would be gated, and CUB indicated that the parking would be made available for the public in the evening hours and for the public using the MOB.

37. CUB represented that the leasable space in the CUB MOB is approximately 90% committed (**Exhibit "8"**).

38. CUB represented that it has access to financing for the CUB MOB project (**Exhibit "8"**)

39. The CUB MOB will contain a six (6) operating room, Medicare certified ambulatory surgery center which is a needed public use which benefits both the City of Utica and the other residents of the Oneida County (**Exhibits "8"** and **"9"**).

40. Bowers did not provide any details on the occupants for its proposed medical office building and the extent to which it had lease commitments for any portion of the space.

41. Bowers did not provide any evidence of a financing commitment to build its proposed project.

42. Bowers is the beneficiary of an agreement to acquire the O'Brien property, but has not acquired the O'Brien Property as of the date of these Determinations and Findings.

43. MVHS supports the CUB MOB (**Exhibit "9"**).

ANALYSIS OF PUBLIC COMMENTS

The OCIDA has considered the public comments including all written objections and support for the eminent domain of the O'Brien Property and use as surface parking.

I. Written Objections from James P. O'Brien III of Rome Plumbing & Heating Supply Co. Inc. (collectively, "O'Brien") and Michael A. Fogel, Esq. of Brown Duke & Fogel, P.C. on behalf of Bowers Development, LLC and Utica Med Building, LLC (collectively "Bowers") set forth in BDF I. The objection from Mr. O'Brien was based on the fact that he entered into a contract to sell the property to Bowers. Bowers objected in BDF I on several basis including: (1) that the project is outside the statutory authority of the OCIDA; (2) eminent domain is contrary to the purpose of the OCIDA; (3) no plan for transition of the plumbing business was provided; (4) the taking is not for a public purpose; (5) bad faith; (6) failure to comply with the Eminent Domain Procedure Law (the "EDPL"); (7) failure to comply with just compensation requirements; (8) excess taking and the failure to pursue alternatives; and (9) failure to comply with the State Environmental Review Act (the "SEQRA"). The contentions of Bowers have been considered and evaluated by the OCIDA as follows:

1. **The taking of the O'Brien Property for parking is within the express statutory authority of the OCIDA**. General Municipal Law ("GML") §858(4) provides that the OCIDA has the power to take property by eminent domain for its corporate purposes. Under GML §858, OCIDA's purposes are to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing a variety of facilities described in the statute including, among others, "commercial" facilities, and "thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York." OCIDA hereby finds that the surface parking to be constructed on the O'Brien Property is a commercial use within OCIDA's statutory authority.

Although the term "commercial" is not defined in the GML, the OCIDA's determination as to what constitutes a commercial project is entitled to deference and will be upheld as long as reasonable. Nearpass v. Seneca County Indus. Dev. Agency, 152 A.D.3d 1192, 1193 (4th Dept. 2017). The New York State Comptroller, when considering the definition of a commercial project under the GML, has stated that "an essential element of any valid commercial activity appears to be the promotion of employment opportunities and prevention of economic deterioration in an area for whose benefit the industrial development agency was created." 1985 Opns St Comp, No. 85-51, 1985 WL 25 843. The State Comptroller thus concluded that a determination as to whether development of an apartment complex is a commercial activity "must be made by local officials based upon all the facts relevant to the proposed project, [and] any such determination should take into account the stated purposes of the New York State Industrial Development Agency Act, that is, promotion of employment opportunities and the prevention of economic deterioration." 1985 Opns St Comp, No. 85-51, 1985 WL 25 843.

On March 3, 2022, the OCIDA approved the grant of financial assistance for the acquisition, construction and equipping of the CUB MOB (the "Financial Assistance Resolution") (**Exhibit "10"**). In its Financial Assistance Resolution, the OCIDA expressly found and determined that, among other things,

> (1) the Facility (i.e., the CUB MOB) constitutes a "project", as such term is defined in the Act (i.e., GML Article 18-A); and
>
> (2) the acquisition, construction and equipping of the Facility, the leasing of the Facility to the Company (i.e., CUB) and the Agency's Financial Assistance 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.

The Financial Assistance Resolution included numerous additional findings supporting the OCIDA's determination that the CUB MOB project 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.

The O'Brien Property will be used as surface parking for the CUB MOB. Accordingly, the OCIDA hereby determines that its findings in the Financial Assistance Resolution, supporting its determination that the CUB MOB project is within the scope of the OCIDA's authority under GML Article 18-A, also apply to the O'Brien Property. Therefore, the OCIDA makes the following findings regarding its acquisition of the O'Brien Property for development as parking for the CUB MOB:

> (1) the acquisition of the O'Brien Property for development as parking for the CUB MOB 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
>
> (2) the O'Brien Property constitutes a "commercial facility" within the meaning of the Act (i.e., GML Article 18-A), the acquisition of which is in furtherance of OCIDA's corporate purposes.

CUB has indicated that the CUB MOB parking lot would be available for the public using the MOB and also available for the public in the evening hours (**Exhibit "11"**). The development of parking in the area will reduce burdens on public parking facilities in the area and also alleviate traffic and facilitate the public use of the CUB MOB and the Wynn Hospital. OCIDA hereby finds that these are within its corporate purposes described above.

To the extent that Mr. O'Brien references the CUB MOB as the project, that position is erroneous since the proposed taking of the O'Brien Property only involves its use as a surface parking lot that was contemplated within the FEIS.

Consistent with the OCIDA's determination that the CUB MOB, and the related O'Brien Property, is a "commercial" facility under the GML, the OCIDA also expressly finds that this is a "commercial real estate" project since it is entitled to the Real Property Tax Law ("RPTL") §485-b(1) exemption available for commercial, business or industrial activity (i.e. the Business investment exemption). The commercial exemption within RPTL §485-b(1) is applicable to an array of real estate projects that provide either "goods or services". That statute goes on to provide that the RPTL §485-b exemption is **not** available to a limited category of real property being used to provide dwelling space or accommodations to either residents or transients other than hotels or motels. RPTL §485-b(5). *See also,* Glengariff Corp. v. Bd. of Assessors of County of Nassau, 128 A.D.2d 872, 873 (2d Dept. 1987) (party seeking the exemption must bear the burden of demonstrating that the facility is not used primarily for dwellings and accommodations). 10 Op. Counsel SBRPS No. 125 (If the assessor determines that the primary use of the property is to provide medical services rather than accommodations, the exemption may be granted). Based on the committed use of the CUB MOB as medical office and ambulatory surgery facility, there is no dispute that the CUB MOB is real property that will be used for a commercial activity in the form of the provision of medical services in which no portion of the CUB MOB is to be used for "accommodations". The parking lot to be constructed on the O'Brien Property adjacent to the CUB MOB is likewise a commercial real estate project under RPTL §485-b.

Finally, the taking of the O'Brien Property for surface parking purposes is a public use since it will mitigate traffic and congestion for the Wynn Hospital and the related CUB MOB. See Truett v. Oneida County, 2021 WL 6072291 (4th Dept. 2021) ("Contrary to the petitioners' further contention, respondent properly determined that the condemnation of the properties will serve the public use of mitigation parking and traffic congestion, notwithstanding the fact that the need for the parking facility is, at least in part, due to a nearly private construction project").

2. **Eminent domain is not contrary to the purpose of the OCIDA**. The mission of the OCIDA is to:

> [a]ssist in the enhancement and diversity of the economy of Oneida County by acting in support of projects in Oneida County that create and/or retain jobs and promote private sector investment utilizing the statutory powers of the Agency as set forth under the provisions of the laws of the State of New York.

As discussed above, the OCIDA's condemnation of the O'Brien Property for parking is consistent with its enumerated powers under GML §858. Additionally, the development of a privately owned medical office building has been part of the IHC since inception. Finally, the OCIDA expressly made the required retail findings to undertake the provision of the financial assistance pursuant to GML §862 since the location of the CUB MOB was found by the OCIDA to be within a "highly distressed area" within the meaning of GML §854(18), and that CUB MOB would serve the public purposes of the GML Article 18-A through the preservation of permanent, private sector jobs in the State of New York. *See also*, GML §862(b)(iii) and §862(c).

3. **Transition of the Plumbing Business**. This objection is irrelevant as Mr. O'Brien had previously entered into a contract to sell the property to Bowers and abandon its business use of the O'Brien Property. As a result, the business conducted thereon was committed to being moved regardless of the potential condemnation. In addition, there is no requirement that the OCIDA create a plan for transition of the O'Brien's plumbing business. All that is required is that the condemnee receive just compensation.

4. **The taking is for a public purpose**. The taking of the O'Brien Property has been requested by CUB for use as surface parking for the CUB MOB and the Wynn Hospital. The surface parking will be available to the public using the CUB MOB and on the weekends and after regular business hours for overnight and after hours visitors to the Wynn Hospital. Parking for the IHC has been determined to be a valid public use. See Truett, 2021 WL 6072291. Further, the O'Brien Property is proposed to be used as surface parking for the IHC and the CUB MOB with an ambulatory surgery facility that will provide a needed public service that will enhance the delivery of health care to the residents of Oneida County and the City of Utica. Further, since the O'Brien Property was reflected as surface parking in the FEIS in conjunction with the development of the IHC, those developments will promote the redevelopment of the downtown area that was approved by New York State as the site of the MVHS project to promote the redevelopment of Downtown Utica and to eliminate blight in the area of the IHC. Finally, the definition of what constitutes a public purpose or public use is broadly as encompassing virtually any project that may confer upon the public, a benefit or advantage. Matter of Court St. Dev. Project, LLC v. Utica Urban Renewal Agency, 188 A.D.3d 1601, 1602-1603 (4th Dept. 2020). As set forth for the reasons set forth in these Determinations and Findings, the OCIDA finds that the taking of the O'Brien Property for surface parking for the CUB MOB and the Wynn Hospital is serving a public purpose and will be a public use of promoting the redevelopment of the Downtown Utica area that was approved by New York State as the site for the MVHS project with the additional benefit that such project will eliminate the present blight in the area which is also a highly distressed area and will further promote the delivery of health care to the residents of Oneida County.

5. **The OCIDA is acting in good faith**. The CUB MOB has actual design plans and has a commitment for 90% of the space for 15 years. In contrast, Bowers failed to submit any detail on its lease commitments and financing. Additionally, the CUB MOB represents a superior public use with its ambulatory surgery center that will further serve the public and facilitate the delivery of efficient medical care to the residents of Oneida County.

6. **The OCIDA has complied with the EDPL**. The OCIDA provided timely notice of the public hearing to the owner of the O'Brien Parcel and its contract vendee as required by EDPL §201. The OCIDA satisfied the five (5) day publication requirement for the Public Hearing. Thereafter the OCIDA conducted a public hearing on February 23, 2022 in compliance with EDPL §203. After the record was assembled both the owner of the O'Brien Property and Bowers received additional time to submit comments on the record for the public hearing.

7. **Just Compensation**. An objection based on just compensation is premature as the OCIDA is not required to tender just compensation prior to the Public Hearing and the vesting of title. Just compensation is the subject of EDPL Article 5 and it follows after the vesting of title under EDPL Article 4.

8. **This is not an excess taking**. The entire O'Brien Property was shown on the FEIS to be used as a surface parking to provide access and use for the public that need to access the CUB MOB and the IHC. The discussion on alternative surface parking for the CUB MOB is set forth in Section 2(a) of the Findings and Determinations section.

9. **The OCIDA has complied with SEQRA**. On January 21, 2022, the OCIDA adopted "Resolution of the Oneida County Industrial Development Agency Regarding the New York State Environmental Quality Review Act Review of the Central Utica Building, LLC Project". In that Resolution, the OCIDA confirmed that FEIS of the Planning Board included the project and identified the OCIDA as an involved agency. No material changes in the scope of the project have been made and, as such, no additional SEQRA review is necessary.

II. Michael A. Fogel, Esq. of Brown Duke & Fogel, P.C. on behalf of Bowers set forth in BDF II additional basis for opposing the taking of the O'Brien Property as follows: (1) the taking of the O'Brien Property would be an abuse of discretion and violate the GML; (2) the lack of response to FOIL requests; (3) the failure to make available the maps and descriptions of the O'Brien Property; (4) defects about the public hearing under the EDPL; and (5) failure to provide the record of the public hearing. The contentions of Bowers in BDF II have been considered and evaluated by OCIDA as follows:

10. **Abuse of Discretion and Violation of the GML**. The OCIDA does not consider its evaluation of the public purpose from the potential taking of the O'Brien Property to be an abuse of discretion rather such review of the public purpose represents an exercise of its statutory powers under General Municipal Law §858(4) and the EDPL. In addition, the taking of the O'Brien Property, if subsequently approved by the OCIDA, does not violate the GML since such action would represent a taking for surface parking for the public in connection with a "commercial project" that is within the enumerated powers of the OCIDA under GML §858. *See also*, the response in No. 2 above.

11. **FOIL Requests**. Importantly, on March 17, 2022, the OCIDA established a link to the entire of the Public hearing and all comments. The OCIDA has updated the link. A representative of BDF has visited the OCIDA on several occasion and was provided the binder of the OCIDA. In addition, the OCIDA provided responses to several FOIL requests from BDF. The scope of several of the FOIL requests made by BDF was extensive so that providing a comprehensive response to the requests took a substantial period of time to acquire and assemble all responsive documents. Notwithstanding that the final response was made after the cutoff period for public comment on March 30, 2022. BDF had more than ample period of time to provide comment on the issue at hand which is whether the taking of the O'Brien Property for surface parking serves a public purpose.

12. **Failure to Make Maps and Descriptions Available for Public Hearing**. The evaluation being made by the OCIDA is whether the taking of the **ENTIRE** O'Brien Property for a parking lot serves a public purpose. The Notice of the Public Hearing that was read into the record at the Public Hearing reflected that the property being reviewed by the OCIDA was limited to the entire O'Brien Property located at 411 Columbia Street in the City of Utica, Oneida County, New York a/k/a SBL 318.41-2-38. That reading of the Notice of Public Hearing provided notice that the public purpose evaluation that was being undertaken by the OCIDA was for the entire O'Brien Property that has existed at 411 Columbia Street so that there was no confusion as to the subject matter of the public hearing and the public purpose evaluation. The legal description and tax maps of the O'Brien Property that are referenced in the Notice of Public Hearing were available at the office of the OCIDA prior to the Public Hearing. These documents were also available for inspection at the dais both before and after the Public Hearing. Sheet C-003 (Existing Conditions Plan) reflects the legal description of the O'Brien Property as well as the existing improvements and the adjacent properties. The representatives of Bowers did not approach the dais or object to the same. The description of the O'Brien Property at the Public Hearing was sufficient and there is no doubt that the only property being reviewed by the OCIDA was the entire O'Brien Property. *See* Matter of Court St. Dev. Project LLC v. Utica Urban Renewal Agency, 188 A.D.3d 1601 (4th Dept. 2020).

13. **Defects with the Public Hearing**. The OCIDA made a detailed presentation that the public purpose evaluation being undertaken was for the entire O'Brien Property. In addition, Michael Fitzgerald, a Member of the OCIDA, was amongst the public present at the public hearing. Finally, a transcript of the public hearing and the entire record, including the objections and support, was copied and made available to each and every member of the OCIDA for their review prior to consideration of this document. The OCIDA extended the public comment periods to March 30, 2022. Finally, the OCIDA published notice that the record of the public hearing was available for inspection at both the offices of the OCIDA and the Oneida County Clerk. Finally, the Notice of the Public Hearing was advertised for five consecutive days as required by the OCIDA in complete conformance with the requirements of the EDPL.

14. **Failure to Provide Record of Public Hearing**. The contentions of Bowers in BDP II are inaccurate as the record of the entire Public Hearing was made publicly available by the OCIDA promptly after its receipt of the Transcript of the Public Hearing. The record of the entire Public Hearing was made publicly available at both the office of the OCIDA and the Oneida County Clerk and multiple thumb drives of the record and additional information was delivered to the Oneida County Clerk. The OCIDA published of its Notice of Filing of the Record of Public Hearing with the Observer Dispatch for five consecutive days which notice indicated that the OCIDA would receive additional public comment until March 30, 2022 at 5:00 PM. The OCIDA rejects any contention that it did not make publicly available the entire record of the Public Hearing as Bowers had multiple opportunities to review and comment on the entirety record and this contention is an inaccurate conflation in an attempt to create an issue where none exists.

III. Michael Galime, President of City of Utica Common Council, in an email dated March 2, 2022 asserts that the MVHS project in downtown City of Utica was positioned to bring private development to the surrounding area and medical office buildings were part of that claim. He further asserts that eminent domain should not be used for the purpose of taking private property from one private party to another private party. Finally, he states that the medical office buildings were not part of the SEQRA and the parking garage was segmented for the SEQRA review. The contentions of Michael Galime have been considered and evaluated by OCIDA as follows:

15. The SEQRA Findings Statement approved by the Planning Board specifically referenced a privately developed medical office building. In addition, the OCIDA is permitted to take property through eminent domain and its determination that the taking of the O'Brien Property for parking is a commercial use within the meaning of the GML §854 that serves a public use is entitled to deference so that it is clear that the CUB MOB and the use of the O'Brien Property as surface parking will result in the creation of additional employment opportunities and the redevelopment of the immediate area of the IHC that will promote the redevelopment of downtown Utica which result in the elimination of blight (See comments above). Since the OCIDA's proposed taking of the O'Brien Property is for public parking any incidental private benefit does not invalidate the dominant public purpose. *See* Matter of Kaufmann's Carousel v. City of Syracuse Indus. Dev. Agency, 301 A.D.2d 292, 303 (4th Dept. 2002). In addition, a taking of private property is permitted for a "public purpose" which is quite broadly defined as encompassing any use that contributes to the health, safety, general welfare, convenience or prosperity of the community. *See* PSC, LLC v. City of Albany Indus. Dev. Agency, 200 A.D.3d 1282 (3d Dept. 2021). Clearly, the taking of the O'Brien Property for surface parking will result in substantial community benefits through the development of the CUB MOB with its superior public amenities which is found to be a benefit to the residents of Oneida County.

IV. Brett Truett in a letter dated February 28, 2022 states that surface parking has decimated downtown Utica and will result in low tax revenue. Mr. Truett had comments on the design of the CUB MOB and asserts that the CUB MOB should be developed as a taller building with less surface parking. The contentions of Brett Truett have been considered and evaluated by OCIDA as follows:

16. Surface parking on the O'Brien Property was reflected as its use as part of the FEIS for the IHC. The development of the CUB MOB will result in additional tax revenues since a payment in lieu of tax benefit was not sought by CUB and is not being provided by the OCIDA. The comments about the design of the CUB MOB are planning issues for the Planning Board. As set forth previously herein, the development of surface parking that alleviates traffic and congestion is a public purpose. See Truett v. Oneida County, 2021 WL 6072291 (4th Dept. 2021)

V. Kate Aiello, Councilperson of the City of Utica by email dated March 2, 2022 in opposition to the use of eminent domain for the parking lot. Ms. Aiello asserts that the development by Bowers is a superior public use since it does not come with a price tag of a $2 million dollar PILOT. She further states that the offers for the O'Brien Property are low offers and not in compliance with the purchase price between willing buyer and seller. The contentions of Kate Aiello have been considered and evaluated by OCIDA as follows:

17. The CUB MOB is not a recipient of a PILOT Agreement from the OCIDA and will not receive an exemption from real property taxes from the OCIDA. As set forth above, no detail was provided about the leasing of the Bowers proposed medical office building and its financial feasibility. In contrast, the CUB MOB is 90% committed and enjoys the support of MVHS. In addition, the CUB MOB is providing an ambulatory surgery center which is a superior public amenity not offered in the Bowers proposal. Finally, the discussion of just compensation due to the property owner is premature since at this stage the OCIDA is evaluating the public purpose of its acquisition of the O'Brien Property by eminent domain.

VI. Scott Truett by email dated March 2, 2022 wrote that if eminent domain must be used it should be at the "CURRENT high-market price", not lowball or even regular market price. The contentions of Scott Truett have been considered and evaluated by OCIDA as follows:

18. Mr. Truett is not correct since the discussion of just compensation is premature since the OCIDA is evaluating the public purpose of its acquisition of the O'Brien property by eminent domain. Further, the applicable standard is the payment of "just compensation" not the "CURRENT high-market price".

VII. Michael Licata of Bowers spoke at the Public Hearing and indicated on the record that he agreed that the downtown area will benefit with an extra medical office building and that patient care will be enhanced (Transcript, p. 26-28). Mr. Licata candidly admitted on the record that MVHS and various physician group did not want to enter into lease and business relationship with Bowers development as he sought an open and collaborative conversation with MVHS. The contentions of Michael Licata have been considered and evaluated by OCIDA as follows:

19. Bowers indicated on the record that a medical office building in the immediate area of the Wynn Hospital is a public purpose. Mr. Licata confirmed that Bowers had a full and fair opportunity to endeavor to have MVHS and the other physician groups enter into a business relationship that would have allowed its proposal to move forward. That did not occur and MVHS and a large physician practice group have elected to reject the proposal from Bowers as is their right. The fact that MVHS and a large physician group elected to not affiliate with or occupy a facility contemplated to be developed by Bowers is significant as that certainly gives rise to substantive concerns of the OCIDA as to feasibility of that conceptual development actually occurring. Further, Bowers did not present any detail to the OCIDA about its proposed medical office building and if any part of it were committed for occupancy that would enable the OCIDA to conclude that its conceptual development was feasible and had a possibility of actually occurring. Finally, to date, Bowers has not acquired the O'Brien Property.

VIII. Gail Coopy by email dated March 2, 2022 opposes eminent domain. The contentions of Gail Coopy have been considered and evaluated by OCIDA as follows:

20. See comments above about the review of the IHC by the Planning Board pursuant to the SEQRA Act.

IX. Mark Harf by email dated February 23, 2022 which was also included in BDF II. Mr. Harf objects to the use of eminent domain of the O'Brien Property as he believes that the proposal by Bowers will create a better medical office building. Mr. Harf objects to the use of taxpayer funds where there is no clear public benefit and that the development of the Downtown Utica area should not be limited to preferred partners of MVHS and the CUB project represents a conflict of interest. The contentions of Mark Harf have been considered and evaluated by OCIDA as follows:

21. Bowers did not present any detail to the OCIDA about its proposed medical office building and if any part of it were committed for occupancy that would enable the OCIDA to conclude that any factual support existed for the potential that its conceptual development was in fact feasible and had any possibility of actually occurring. Moreover, the records at the County Clerk do not have a recorded deed reflective of any transfer of the O'Brien Property by Bowers. The OCIDA has the statutory power of eminent domain within its enumerated powers under the GML, and the use of the O'Brien Property for parking serves a valid public purpose such that OCIDA may exercise its power of eminent domain to take the O'Brien Property for surface parking. The OCIDA does not agree that there is a conflict of interest as CUB will be the entity that will be at risk for the development of the CUB MOB since CUB will be procuring the financing and providing the required additional capital, and thus will assume the attendant risks associated with a multi-million dollar project.

X. Lily Werenczak, by e-mail dated March 29, 2022 writes to oppose eminent domain. The contentions of Lily Werenczak have been considered and evaluated by the OCIDA as follows:

22. The GML and EDPL specifically permit the OCIDA to acquire property by eminent domain that would include the acquisition of O'Brien Property for use as a parking lot for the CUB MOB. Accordingly, the actions of the OCIDA are not immoral, unethical or an overreach of its power.

XI. Robert Sullivan, by e-mail dated March 29, 2022, support the use of eminent domain for the MVHS hospital project and associated projects. The support of Robert Sullivan has been considered and evaluated by the OCIDA.

XII. Richard Widdicombe by email dated March 29, 2022 opposes the use of eminent domain indicating that such action is abusive to the taxpayers. The opposition of Richard Widdicombe has been considered and evaluated by the OCIDA.

XIII. Brett Truett Facebook Post dated March 29, 2022 encouraged people to oppose the eminent domain of the O'Brien Property since that action involved the use of taxpayer dollars. The opposition of Brett Truett has been considered by the OCIDA with the clarification that taxpayer funds will not be used for the acquisition of the O'Brien Property, and the CUB MOB will not be receiving an exemption from real property taxes from the OCIDA so that it is expected that there will be a net increase in the assessed value over the existing conditions. In response to Mr. Truett's requests negative comments were received from Della Cummings and John Calhoun and a comment from Jack Tobin was posted which did not take a position. Bryan Bowers letter dated March 30, 2022 provides additional comments related to Eminent Domain for 411 Columbia Street, City of Utica, New York. The contentions of Mr. Bowers of Bowers have been considered and evaluated by the OCIDA as follows:

23. The rebuttal by Mr. Bowers to the statements of Michael Kelberman of CUB is deemed inaccurate since the objective evidence is that CUB is spending its funds and proceeding with the development of design and construction documents while the Bowers project has not made any showing of any signed and binding occupancy agreements for any portion of its proposed project notwithstanding its representation to City of Utica on June 30, 2021 that it was in partnership with "several prominent medical/surgical groups in the area". Importantly, when Bowers wrote to the OCIDA in its letter dated September 13, 2021, that Bowers had lost the support of at least one of the medical/surgical groups being CNY Cardiology. In addition, from the Public Hearing, although unstated, it is apparent to the OCIDA that the Bowers project is not supported by either MVHS or CNY Cardiology.

24. The rebuttal by Mr. Bowers to the letter from Charles Cronin of Axiom Capital Corporation is deemed to be a self-serving and inaccurate statement as Mr. Cronin confirmed that he is seeking conventional financing for the CUB Project that will be secured by the equity and guarantees of the principals of CUB and that a sale to a REIT is an inaccurate contention as the building is yet to be constructed. The relevant point is that based on the record presented to the OCIDA for this public hearing, the CUB Project is deemed to be proceeding while the Bowers project was not shown to have any leasing and/or financing commitments.

XIV. Brown Duke Fogel Letter dated March 30, 2022 ("BDF III") claims the following: (1) that documents have not been presented and that there should be another public hearing and additional public comment period; (2) that BDF and Bowers did not receive maps and legal description of the O'Brien Property; (3) the record of the public hearing was not made available to the public and BDF; (4) there has been no response to various requests by BDF under the Freedom of Information Law; (5) the OCIDA is required to undertake additional review of the CUB Project under the State Environmental Quality Review Act, including a contention that the project needs approvals under the Federal Aviation Administration; and (6) a letter from the Mayor of the City of Utica dated March 22, 2022. The contentions in BDF III have been evaluated by the OCIDA as follows:

25. The contentions in BDF III regarding not making documents available to the public are inaccurate. The OCIDA has maintained a log of all comments received and states that all public comments have been considered and responded by the OCIDA. Many of the comments are repetitive and non-responsive to the core issue of the public purpose of eminent domain of the O'Brien Property for a surface parking lot. However, all comments were expressly provided to the members of the OCIDA and evaluated.

26. The contention on the non-receipt of the maps and legal description is erroneous. See the response in Paragraph 12 herein which is reincorporated herein by this reference and is not repeated for brevity.

27. The record of the public hearing was available for public inspection. The OCIDA has consistently updated the record for all comments received. In addition, the letter from counsel to the OCIDA dated April 2, 2022 responds to all contentions about the maintenance by the OCIDA of the record of the public hearing and is incorporated herein by this reference. Nothing herein impacted the ability of any member of the public to access the record of the public hearing and to make comment on the core issue being the proposed taking of the entirety of the O'Brien Property followed by its use as a surface parking lot. In fact, the OCIDA consistently updated the record of the public hearing to include all of the comments and information that it received. This is confirmed by the extent of public comment received by the OCIDA both in favor and/or against any taking of the O'Brien Property.

28. The OCIDA has responded to the FOIL requests and has provided all information required to evaluate the issue at hand being the taking of the O'Brien Property for surface parking. The contentions in BDF III regarding the FOIL are outside of the scope of the issue for review by the OCIDA being the public purpose of the taking of the O'Brien Property for surface parking.

29. The OCIDA was expressly listed as an involved agency by the Planning Board for the SEQRA review of the IHC. The Findings Statement approved by the Planning Board referenced that there was to be a private MOB to the north and behind the Wynn Hospital. The MOB proposed is the CUB MOB which was moved to a slightly different location to the north of the Wynn Hospital. One common thread to both plans was that the O'Brien Property was to be surface parking for the MOB. The SEQRA contentions in BDF III relate to the CUB MOB and do not relate to the issue at hand being the taking of the O'Brien Property for surface parking. The OCIDA has determined that the changes to the CUB MOB were not material to require additional review under SEQRA. In addition, the FAA contention is factually in accurate as the helicopter landing area is planned for the top of the County Parking Garage. Finally, any challenge to the Findings Statement should be directed to the Planning Board and is noted to be untimely.

30. Letter to the Editor dated March 22, 2022 from Mayor Robert Palmieri of the City of Utica was not addressed to OCIDA as a comment and principally relates to the Kennedy Garage which is stated to be in need of $13,000,000 of repairs. Since work on the renovation of the Kennedy Garage has not commenced, that inaction further demonstrates the need for taking of the O'Brien Property for surface parking that is needed to operate the CUB MOB for the health and safety of the patients and their families. The evaluation of the public purpose for the taking of the O'Brien Property is the issue for review. The OCIDA has the power of eminent domain under the GML.

XV. Robert Lott, by e-mail dated March 30, 2022, opposes eminent domain. The contentions of Robert Lott have been considered an evaluated by the OCIDA as follows:

31. The taxpayers are not paying for the acquisition of the O'Brien Property as the OCIDA will be reimbursed for any and all costs incurred to acquire the O'Brien Property.

XVI. MVHS letter dated February 23, 2022 indicates that the acquisition of the O'Brien Property is critical to the construction of the CUB MOB and the ambulatory surgery center. The development of the CUB MOB with the ambulatory surgery center is crucial to the overall project since the services housed therein complement the work in the hospital since it will provide outpatient radiology and laboratory services. The plan for the IHC had a MOB next to the Hospital which allows for easier patient access and significant cost savings. The contentions of MVHS have been considered and evaluated by OCIDA as follows:

32. The CUB MOB is a first-rate medical office building use that has the support of MVHS. The CUB MOB contains an ambulatory surgery center which is a superior and much needed medical use. The adjacent surface parking on the O'Brien Property is a critical component of the development of the CUB MOB as adjacent surface parking is critical to the operation of the CUB MOB especially with the ambulatory surgery center which will serve the elderly and infirm. The CUB MOB is 90% committed and has financing in place. Bowers failed to present any details on the feasibility of its development.

XVII. D. Chad Davis, Member of the Oneida County Board of Legislators, by letter dated March 1, 2022, wrote that the proposed MOB was part of the original site plan for the IHC. The proposed MOB with an ambulatory surgery center next to the hospital is critical to the overall operation of the Hospital. Adjacent parking is integral to the success of an ambulatory surgery center since Mr. Davis indicated that he has had eight knee operations such that he knows the importance of proximately located adjacent parking. Mr. Davis believes that the CUB MOB with the adjacent public parking is a public purpose. The CUB MOB is a well laid out, non-speculative health care project with all due diligence complete that will benefit the entire public which supports the public purpose of good health and welfare. Mr. Davis supports the use of eminent domain with the payment of just compensation. The contentions of D. Chad Davis have been considered and evaluated by OCIDA as follows:

33. The use of the O'Brien Property as surface parking for the CUB MOB and the Wynn Hospital has been represented as crucial to the CUB MOB and the ambulatory surgery center which development is a critical part of the Wynn Hospital project. No party provided any substantive dispute with that contention or that the CUB MOB is a public purpose. The FEIS clearly reflected that the O'Brien Property would be utilized as surface parking for the MOB and the IHC so that the taking by the OCIDA of the O'Brien Property simply fulfills that component of the FEIS and Findings Statement.

XVIII. Central Utica Building, LLC. Two representatives of CUB spoke at the Public Hearing and submitted a written statement dated March 1, 2022. The contentions of CUB have been considered and evaluated by OCIDA as follows:

34. From the public hearing there is no dispute that a MOB behind the Wynn Hospital is a public purpose. The CUB MOB with the six (6) operating room, Medicare certified ambulatory surgery center which is a superior public purpose that was represented to be crucial to the success of the Wynn Hospital and required for its opening. Representatives of MVHS and CUB stated that the CUB MOB must be operational prior to the opening of the Hospital. The CUB MOB is proceeding with construction documents, but it requires the acquisition of the O'Brien Property and the commitment of that property as parking. The CUB MOB is found to be feasible as it was leased to the extent of approximately 68,000 rentable SF out of a total of approximately 77,000 rentable SF or approximately 90% of the rent space (i.e. there will be an estimated approximately 17,000 SF of common space therein for a total of approximately 94,000 SF) . The commitments to such are all for 15 years which is found to make the financing and realization of this development actually feasible. The CUB MOB has executed agreements with an architect and general contractor since 2021. Applications for approvals are pending and the construction phase schedule shows a completion date of July 2023. A space plan was provided for the various leased spaces in the CUB MOB. An application for the Certificate of Need for the ambulatory surgery center was represented as being in the process of being completed for submittal to the New York State Department of Health ("DOH"). Evidence of financial feasibility of the CUB MOB was presented with a substantial equity commitment by CUB. The proposal from Bowers did not have any similar details and obviously had lost the support of MVHS which has the right to proceed with the development of a MOB consistent with their separate vision that did not include any participation by Bowers.

35. The OCIDA finds that the CUB MOB is and was part of the redevelopment plan approved by the DOH as part of the IHC and promotes the redevelopment of the surrounding, including the establishment of several restaurants and loft apartment complexes. The construction of the MOB was included in the plan submitted to the DOH.

36. The OCIDA finds that the CUB MOB will provide new and advanced cardiology services and additional critical medical specialties that will practice adjacent to the Wynn Hospital as well as a supportive laboratory and radiology services. The CUB MOB will enhance the access of healthcare services to the entire community through integrated healthcare delivery services. The CUB MOB will provide 100 construction jobs and additional jobs in the healthcare field.

37. The OCIDA finds that the CUB MOB will attract new medical specialties, such as a structural heart physician, to Oneida County so that people will not have to travel to Syracuse, Albany or New York City.

38. The OCIDA finds that patients that go to an ambulatory surgery center are often infirm and may need post operative care so that they cannot be expected to walk a number of blocks to access their transportation. Adjacent parking is critical to the operation of an ambulatory surgery center which is integral to the success of the CUB MOB and the entire Wynn Hospital.

DETERMINATION AND FINDINGS

The OCIDA considered the proposed acquisition of the O'Brien Property pursuant to the EDPL, the comments made at the public hearing and all written submissions and the response to the comments set forth herein. The OCIDA adopts these Determinations and Findings as set forth below:

1. The public use, benefit, and purpose from the acquisition of the O'Brien Property and use as surface public parking will be served as follows:

   (a) The proposed acquisition of the O'Brien Property at 411 Columbia Street for surface parking was reflected in the FEIS as being used as surface parking and will help solve traffic and congestion problems by providing parking for the residents accessing the CUB MOB and which parking will be available on the weekends and evenings to the general public needing to access the Wynn Hospital and is immediately needed since the renovation of the Kennedy Garage has not commenced.

   (b) There is a need for better health care facilities in Oneida County in order to improve the health and welfare of the residents of the County. The proposed acquisition of the O'Brien Property at 411 Columbia Street and use surface parking was part of the development of the IHC and is critical to the success of the CUB MOB and the Wynn Hospital since adjacent parking is required to operate the CUB MOB and the ambulatory surgery center therein as well as the new radiology and laboratory facilities.

   (c) The development of the IHC has assisted in leading to the development of complimentary commercial businesses and development in the immediate area, examples of which are restaurants, a nearby brewing company and entertainment complex and conversion of empty building space into loft style apartments.

   (d) The use of the O'Brien Property as public parking is a commercial project that is within the scope of the OCIDA's authority under GML Article 18-A.

2. The approximate location of the proposed public project and the reasons for the selection of the O'Brien Property as surface parking as follows:

   (a) There are no other immediately adjacent surface parking alternatives capable of handling the parking requirements of the CUB MOB to the O'Brien Property since the location of the CUB MOB at the intersection of State and Columbia Streets is bounded by two public streets and an access easement to the Kennedy Plaza Apartments. The Kennedy Apartments is a midrise residential apartment complex to the northeast of the CUB MOB that does not have excess parking available to accommodate the CUB MOB. The property to the north owned by Chesapeake Holdings Orangeburg is not viable as parking for the CUB MOB since that parking area is separated by an access easement to the Kennedy Plaza Apartment which does not

make for safe access to the CUB MOB. Further, the acquisition of the O'Brien Property will provide 229 spaces of proximately located and fully contiguous surface parking available to the general public users of the CUB MOB and the Wynn Hospital on weekends and evenings. Proximate adjacent parking is needed for the safe transportation of patients of the CUB MOB and the Wynn Hospital since the patients, care providers and relatives are infirm or elderly. Finally, the FEIS reflected that the O'Brien Property would be surface parking so that the taking of that property for public parking is consistent with that use. In sum, there are no other feasible alternatives for adjacent surface parking to the CUB MOB.

3. The general effect of the proposed project on the environment and the residents of the City of Utica and the County of Oneida is as follows:

   (a) The Planning Board issued its Finding Statement pursuant to SEQRA. The OCIDA was listed as an involved agency for SEQRA purposes. In connection with the CUB MOB, the OCIDA incorporated the Findings Statement and determined that there was no material change in the scope of the project that would affect the Findings Statement adopted by the Planning Board.

   (b) The development of the IHC, including the CUB MOB, is critical to the residents of Oneida County and the City of Utica as it will eliminate the blight that existed in the immediate are prior to the approval of the IHC and will markedly improve the delivery of health care to the community.

   (c) The development of the IHC has led to the development of ancillary commercial development in the immediate area of the Wynn Hospital such as some restaurant development, the announced redevelopment of a large empty structure at 600 State Street and numerous renovations of empty building space into loft apartments .

4. The other factors considered by the OCIDA were as follows:

   (a) The O'Brien Property was reflected on the FEIS as surface parking.

   (b) The parking on the O'Brien Property has been represented to be available for the public.

   (c) The fact that MVHS and various physician groups have both rejected the entreaties made by Bowers is not a relevant consideration since the OCIDA has listened and evaluated all statements at the Public Hearing and subsequent written submission and has determined that the development of the CUB MOB is feasible since it is 90% committed with a superior public use being an ambulatory surgery center.

(d) The development of the new Wynn Hospital has and is expected to spur additional economic development in the City of Utica.

(e) The development of the CUB MOB enjoys the support of the MVHS.

(f) Bowers did not provide substantive details on its proposed development nor were any leasing and/or construction financing commitments provided.

(g) Bowers as the contract vendee has not acquired the O'Brien Property as of the date of these findings.

5. Pursuant to EDPL §202, a Notice of Public Hearing was published in The Observer Dispatch from February 7, 2022 to February 11, 2022. The same Notice of Public Hearing was served on all interested property owners, by certified mail return receipt requested service, more than ten (10) days prior to the Public Hearing.

6. Pursuant to EDPL §203, a Public Hearing was conducted on February 23, 2022. At the Public Hearing the OCIDA outlined the purpose and proposed location of the parking lot being the entirety of the O'Brien Property and had maps and development plans available for inspection. Every person in attendance was given a reasonable opportunity to present an oral or written statement and to submit other documents concerning the proposed public project. Written submissions were accepted by the OCIDA until March 2, 2022.

7. Following the closing of the Public Hearing, copies of the complete record of the Public Hearing including the transcript were filed with the Oneida County clerk and the OCIDA on March 16, 2022.

8. On March 16, 2022, the OCIDA notified O'Brien, Bowers, and the Attorney for Bowers that the Public Record is available for inspection at the Offices of the OCIDA and had been filed with the Office of the Oneida County Clerk (**Exhibit "12"**) and that they would have until March 30, 2022 to provide any additional comment. In addition, on March 17, 2022, the OCIDA established a link on its website to the documents in its possession that it considered as well as all comments received to that date. The OCIDA has supplemented that link from time to time.

9. On or about March 22, 2022, the OCIDA published notice of filing of the record of the public hearing and provided that additional public comment would be accepted until March 30, 2022 at 5:00 P.M. The notice of filing was published in the Observer Dispatch for five consecutive days from March 22, 2022 to March 27, 2022 (**Exhibit "13"**)

10. The OCIDA has considered the proposed taking, the comments made by speakers at the hearing and in writing and other matters related to the acquisition of the O'Brien Property.

11. The OCIDA, as a listed involved agency, hereby accepts and adopts the Findings Statement issued by the City of Utica Planning Board as the lead agency pursuant to the SEQRA, dated April 30, 2019.

12. The OCIDA has heard and evaluated the respective testimony of Patrick Donnelly, Esq., on behalf of Bowers, Hugh MacIsaac, M.D., on behalf of CUB, Michael Licata of Bowers, Bob Schofield from MVHS and Pete Hotvett, M.D., on behalf of CUB, submitted at the Public Hearing in its entirety.

13. The OCIDA has read and evaluated all written comment.

14. The OCIDA finds that the necessary justification exists to proceed to condemn the O'Brien Property for the public use as a surface parking lot pursuant to EDPL §204(B) that:

    (a) The public use, benefit or purpose of this property as a surface parking lot has been established in the record;

    (b) The location for the proposed public project has been established and an explanation for the reasons for the selection of that location has been provided; and

    (c) The general effect of the proposed use of the O'Brien Property as surface parking on the environment and the residents of the local area, the City of Utica and the entirety of Oneida County have been comprehensively examined.

15. Copies of all documentation concerning the above acquisition and condemnation of the O'Brien Property are on file at the offices of the Oneida County Industrial Development Agency, 584 Phoenix Drive, Rome, New York 13441 and Oneida County Clerk at 800 Park Avenue, Utica, New York 13501, which include the transcript of Public Hearing held on February 23, 2022 and all documentation submitted to the OCIDA concerning said acquisition.

16. For all the reasons stated in these Determinations and Findings and the information known to the members of the OCIDA, the OCIDA hereby determines that:

    a. the acquisition of the O'Brien Property known as Lot 38 in Block 2 of Section 318.41 aka 411 Columbia Street, City of Utica, New York by the OCIDA by eminent domain for surface parking will serve a public use that will benefit the residents of Oneida County within the meaning of the EDPL.

Dated: April 7, 2022
Rome, New York

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

_____
David C. Grow
Chairman

Dated: April 7, 2022
Rome, New York

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

David C. Grow
Chairman

LISTING OF EXHIBITS

Exhibit "1"	Figure 3 of the FEIS
Exhibit "2"	Maps of O'Brien Property
Exhibit "3"	January 14, 2022 request from CUB to OCIDA to initiate proceedings under EDPL
Exhibit "4"	Notice of Public Hearing, O'Brien Notice and Bowers Notice with proof of mailing and evidence of publication
Exhibit "5"	Notice to Bower's Attorney dated February 4, 2022
Exhibit "6"	Transcript of Public Hearing
Exhibit "7"	Evidence of Filed Record of Public Hearing
Exhibit "8"	Representations from CUB that CUB MOB is 90% committed and has access to financing.
Exhibit "9"	Representation from MVHS on the CUB Project.
Exhibit "10"	March 3, 2022 resolution of the OCIDA on CUB MOB
Exhibit "11"	March 2, 2022 letter from CUB re: off hours parking
Exhibit "12"	Letter to O'Brien, Bowers and the Attorney for Bowers on the Filing of the Record of the Public Hearing, dated March 16, 2022
Exhibit "13"	Affidavit of Publication of the Notice of Filing

EXHIBIT "1"

To accommodate the proposed MVHS IHC, the proposed Project will involve the acquisition of properties and modifications to existing public/private utility infrastructure. Descriptions of the Project elements are provided below.

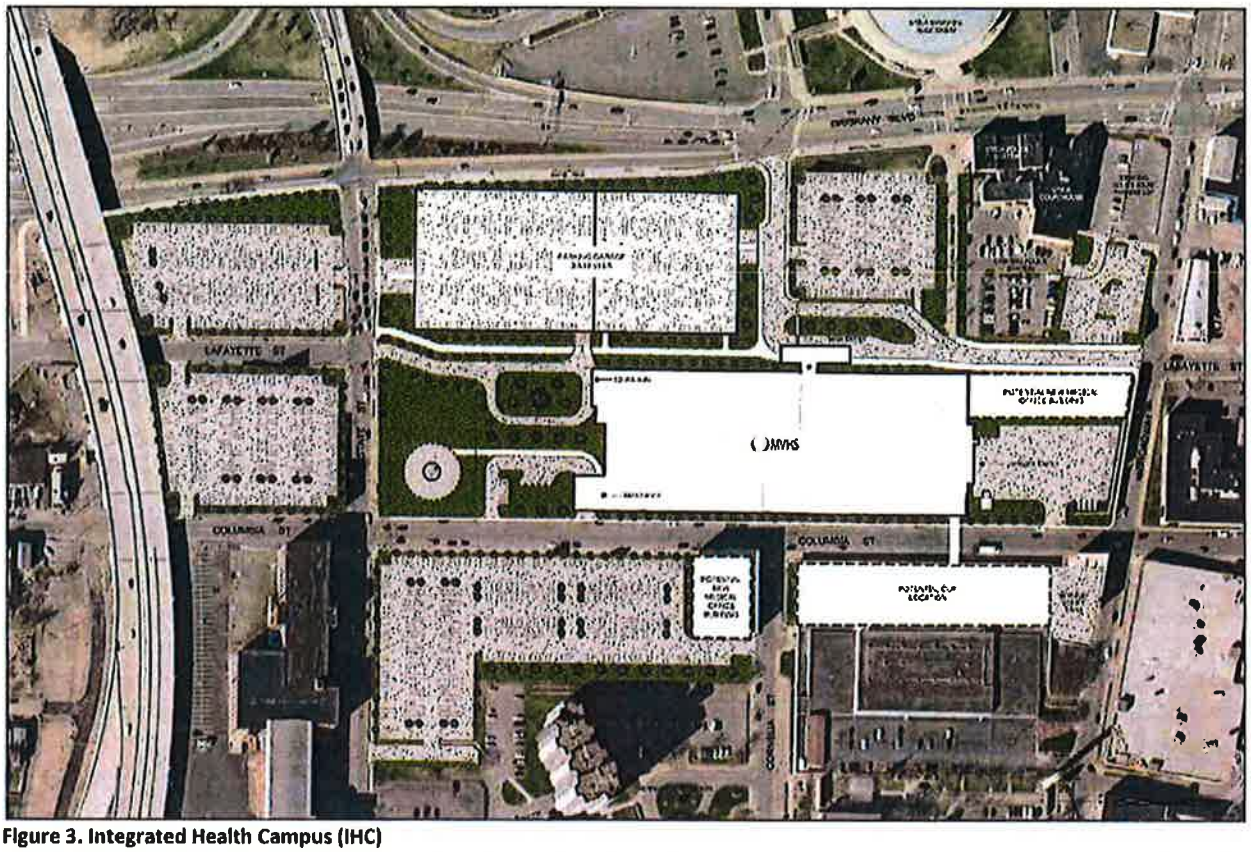


Figure 3. Integrated Health Campus (IHC)

Facilities

Hospital Building

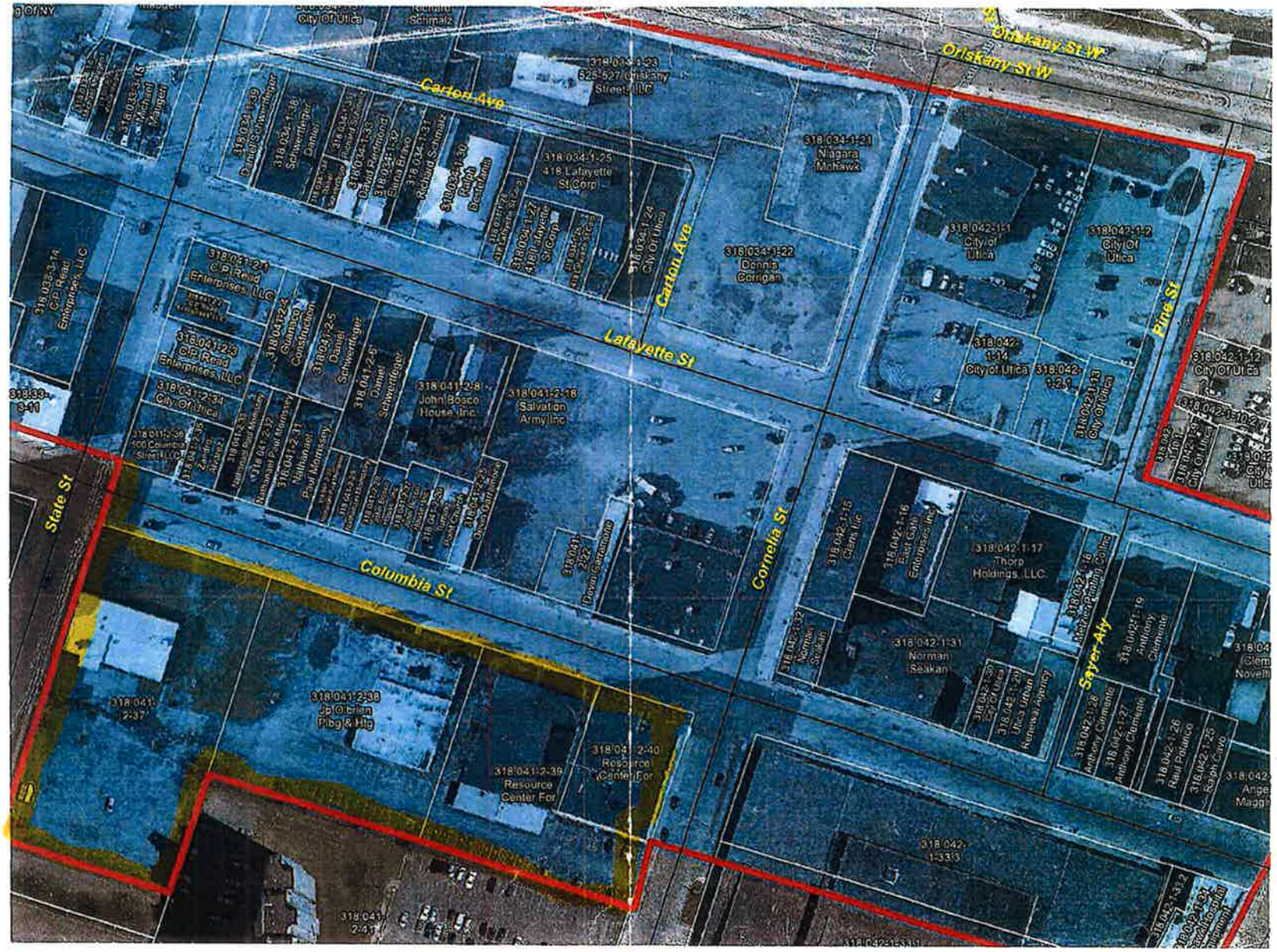
The proposed 670,000± square foot (sf) hospital building will be constructed on parcels located west of Broadway and will extend through Cornelia Street onto parcels located east of State Street. The hospital building consists of a two-story podium and a seven-story bed tower.

Most services currently provided at the St. Luke's and SEMC campuses will be transitioned to the MVHS IHC including 373± inpatient beds (see below). MVHS plans to facilitate the adaptive reuse of the vacated space at the existing facilities (see Section 8 of the DEIS).

Central Utility Plant (CUP)

From a facilities perspective, the consolidation of two aging facilities (100 and 60 years) will provide an opportunity for a more energy-efficient environment, with a state-of-the-art IHC that meets and exceeds current day best practices and building codes and promotes energy and water conservation and other sustainable measures that will reduce the overall amount of resources used by MVHS.

EXHIBIT "2"


Orliskany St W
Carton Ave
Lafayette St
Columbia St
State St
Cornelia St
Ping St
Sayer Aly
318.034-1-23
525-527 Oriskany Street, LLC
318.034-1-21
Niagara Mohawk
318.034-1-25
418 Lafayette St Corp
318.034-1-22
Dennis Corrigan
318.042-1-1
City of Utica
318.042-1-2
City Of Utica
318.042-1-14
City of Utica
318.041-2-8
John Bosco House Inc
318.041-2-18
Salvation Army Inc
318.041-2-38
Jp O'brian Plbg & Htg
318.041-2-39
Resource Center For
318.041-2-40
Resource Center For
318.042-1-15
Clens Llc
318.042-1-16
East Gate Enterprises Inc
318.042-1-17
Thorp Holdings, LLC
318.042-1-31
Norman Seakan
318.042-1-32
Norman Seakan
318.042-1-29
Utica Urban Renewal Agency
318.042-1-26
Anthony Clemente
318.042-1-27
Anthony Clemente
318.042-1-19
Anthony Clemente
318.042-1-25
Ralph Cavo
318.042-1-333

with the NYS legislation that allocated $300 million for projects located in Oneida County's largest population center.

Other factors that support the downtown location (see Section 1.1.3) include: regional accessibility with proximity to major highways, public transit systems, and the support of the regional community and government stakeholders.

1.1.3 Project Location

The MVHS IHC will encompass approximately 25-acres (see Figure 2), which will generally be bounded by Oriskany Street (NYS Route 5S) to the north, Broadway to the east, NYS Route 5/8/12 to the west, and Columbia Street, City Hall and Kennedy Apartments to the south. The proposed location is proximal to the City's urban core, as well as the City's proposed "U" District, existing Brewery District, Bagg's Square and Utica Harbor Point. This area has been targeted by the City of Utica for economic redevelopment for years making it a prime location for consideration by MVHS (see "Property Acquisition" below).

1.1.4 Project Elements

As illustrated on Figure 3, the MVHS IHC will include the following elements:

- Hospital building
- Central Utility Plant (CUP)
- Parking facilities (including one municipal parking garage and multiple surface lots)
- Future medical office building (MOB) (by private developer)
- Campus grounds
- Hospital helipad
- Pedestrian/utility bridge over Columbia Street

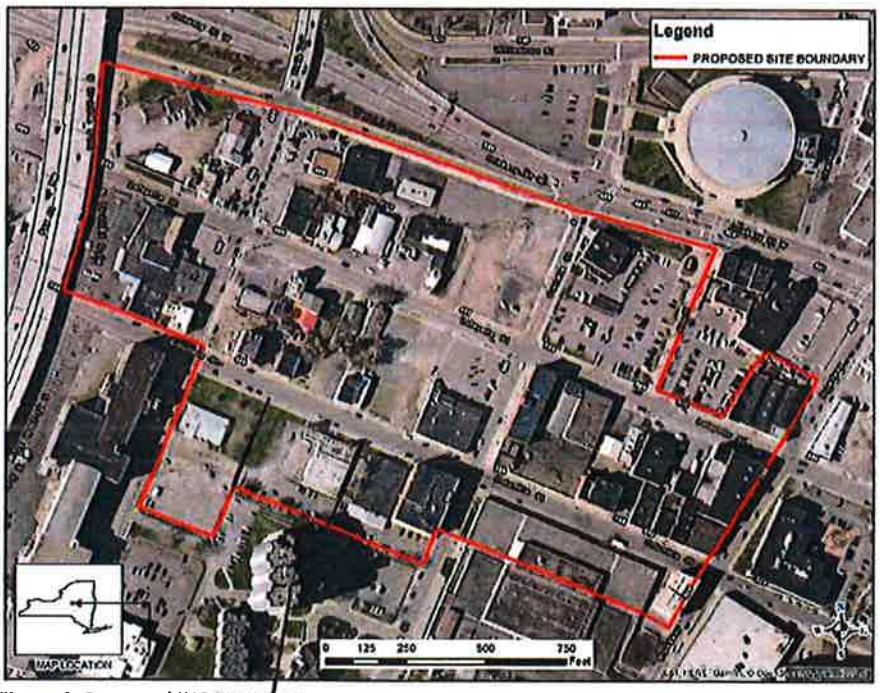


Figure 2. Proposed IHC Boundary

O'Brien Property

EXHIBIT "3"

Bruce A Smith
Direct: 315.477.6291
Direct Fax: 315.425.3691
Email: bsmith@ccblaw.com

January 14, 2022

BY E-MAIL
Shawna M. Papale, Executive Director
Oneida County Industrial Development Agency
584 Phoenix Drive
Rome, New York 13441

Re: Central Utica Building Project

Dear Ms. Papale:

As described in my client's Application for Financial Assistance, Central Utica Building, LLC ("CUB") seeks to locate its approximately 94,000 square foot medical office building ("MOB") and appurtenant facilities including parking areas on the following four contiguous parcels located adjacent to the new Wynn Hospital: 318.041-2-37, 318.041-2-38, 318.041-2-39 and 318.041-2-40. The MOB will be located on parcel 318.041-2-37 and the parking necessary to support the MOB will be located on the remaining three parcels.

Parcels 318.041-2-37, 318.041-2-39 and 318.041-2-40 are owned by Mohawk Valley Health System and will be ground-leased to CUB. To accommodate the parking requirement for patients of the ambulatory surgery center, the medical practices and supporting medical uses located in the MOB the property located at 411 Columbia Street, tax map number 318.041-2-38 (the "O'Brien Parcel") must be included in the MOB's property assemblage. A copy of the concept plan showing the location of the MOB and the O'Brien Parcel within the required property assemblage is attached to this letter. **Without the O'Brien Parcel there will not be adequate parking to support the MOB and CUB will be unable to develop the MOB at that location.** As discussed at the December 17 OCIDA meeting, the location of the MOB and its ambulatory surgery center within the footprint of the Wynn Hospital is critical to MVHS.

On December 9, 2021 I delivered the attached letter to the attorney for the owner of the O'Brien Parcel offering to purchase the property. I was subsequently advised by the attorney that there is an existing and enforceable contract to purchase the O'Brien Parcel and, therefore, the owner is contractually unable to sell the property to another party.

The MOB project—including the Article 28 ambulatory surgery center—will be transformative both to downtown Utica and to the delivery of health care services in Oneida and surrounding counties. **Because ownership of the O'Brien Parcel is essential to the MOB development CUB is requesting that OCIDA immediately commence eminent domain proceedings to condemn the O'Brien Parcel.**

Thank you for your consideration.

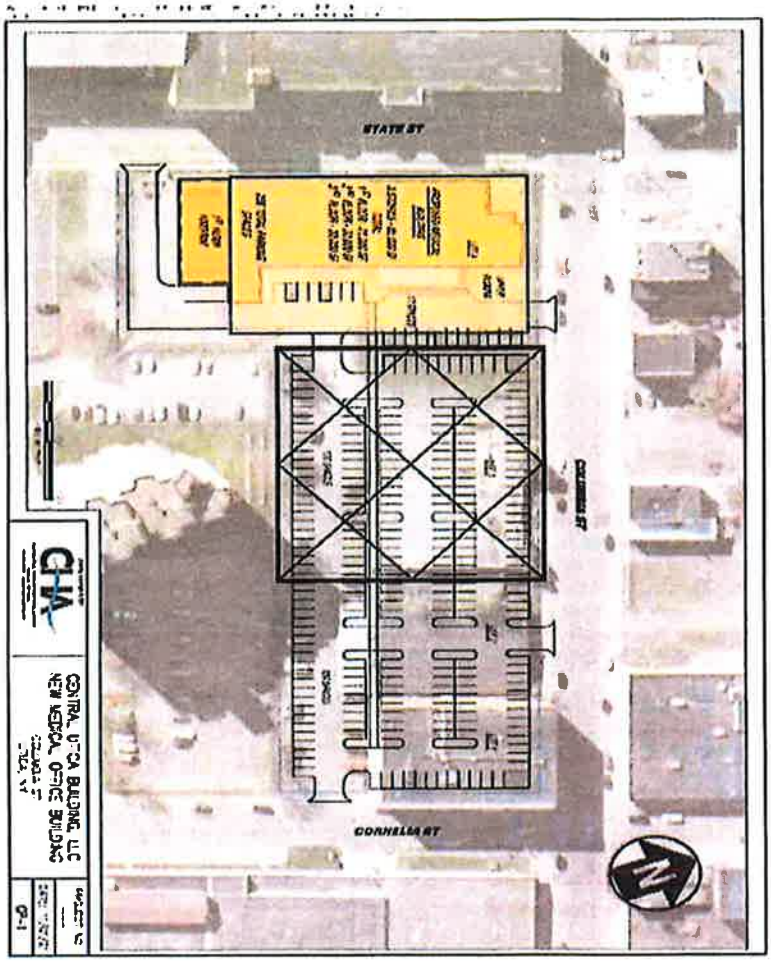
Very truly yours,

Bruce A. Smith

Bruce A. Smith

COHEN COMPAGNI BECKMAN APPLER & KNOLL, PLLC
Attorneys and Counselors at Law
507 Plum Street, Suite 310, Syracuse, New York 13204
Phone: 315.671.6000 • Fax: 315.671.6001 • Web: www.ccblaw.com

O'Brien Parcel is cross-hatched



Bruce A. Smith
Direct: 315.477.6291
Direct Fax: 315.425.3691
Email: bsmith@ccblaw.com

December 9, 2021

VIA HAND DELIVERY
Douglas J. Mahr, Esq.
Scolaro Fetter Grizanti & McGough, P.C.
507 Plum Street, Suite 300
Syracuse, New York 13204

Re: 411 Columbia Street, Utica, New York, Tax Map No. 318.41-2-38 (the "Property")

Dear Doug:

I represent Central Utica Building, LLC ("CUB"). CUB is developing an approximately 100,000 sf medical office building to be located at 601 State Street (corner of State and Columbia) in downtown Utica (the "MOB"). The MOB will be adjacent to, and within the footprint of the new Wynn Hospital of the Mohawk Valley Health System (the "Wynn Hospital"). Among the MOB's tenants will be a state-of-the-art Article 28-licensed, Medicare certified ambulatory surgery center with six operating rooms. The MOB and the ambulatory surgery center are part of the Integrated Health Campus in downtown Utica sponsored by Mohawk Valley Health System ("MVHS") and was included in MVHS' Certificate of Need application approved by the Department of Health.

To accommodate the parking requirements for the MOB CUB must obtain ownership of the Property. CUB hereby offers to purchase the Property from J.P. O'Brien Plumbing & Heating Supply, Inc. for a purchase price of $750,000. The only contingency will be delivery of clean title. Closing will occur within 30 days from the delivery of the title commitment for the Property which I will order promptly following your acceptance of this letter.

This offer is open and may be accepted by your client up to 5:00 pm on December 16, 2021. If not accepted within this period the offer is withdrawn.

Very truly yours,

COHEN COMPAGNI BECKMAN APPLER & KNOLL, PLLC

Bruce A. Smith

BAS/lr:683383.1

EXHIBIT "4"

NOTICE OF PUBLIC HEARING

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY NOTICE OF PUBLIC HEARING TO BE HELD ON FEBRUARY 23, 2022 PURSUANT TO SECTIONS 201-203 OF THE EMINENT DOMAIN PROCEDURE LAW IN CONNECTION WITH THE ACQUISITION OF ADDITIONAL PROJECT LAND FOR THE

CENTRAL UTICA BUILDING, LLC PROJECT.

PLEASE TAKE NOTICE that a public hearing, open to all persons, will be held on February 23, 2022 at the Oneida County Legislative Chambers, Oneida County Office Building, 10th Floor, 800 Park Avenue, City of Utica, Oneida County, New York, commencing at 9:00 a.m. by the Oneida County Industrial Development Agency ("OCIDA"), pursuant to Sections 201-203 of the New York State Eminent Domain Procedure Law ("EDPL") to consider the proposed acquisition by condemnation of 411 Columbia Street (SBL No.: 318.41-2-38) in the City of Utica (the "Additional Project Land") in connection with the undertaking and development of a certain approximately 94,000 SF medical office building and a fully licensed six (6) suite ambulatory surgery center in the footprint of the Wynn Hospital located at 601 State Street (corner of State and Columbia) (the "Project") by Central Utica Building, LLC, on behalf of itself and/or an entity formed or to be formed on its behalf (collectively, the "Company"), which acquisition of the Additional Project Land has been represented by the Company to facilitate the delivery of healthcare services to the residents of Oneida County, create new and improved job opportunities, reduce unemployment, eliminate blight in the immediate area of the Project, promote urban renewal and redevelopment and on an overall basis result in the betterment of community prosperity within Oneida County. The Company has represented that the acquisition of the Additional Project Land is necessary for the development of the Project.

Pursuant to Article 2 of the EDPL, the purpose of the public hearing is to review the public use to be served by the acquisition of the Additional Project Land, and the impact of the acquisition of the Additional Project Land on the environment and residents of the locality where the Project is proposed to be constructed, and to give all interested persons an opportunity to present oral or written statements and to submit other documents concerning the Project and the acquisition of Additional Project Land proposed to be acquired pursuant to the EDPL.

The public purposes served by the Project and the Additional Project Land include: (1) improving healthcare for the community, (2) creating new and improved job opportunities, (3) reducing unemployment, (4) eliminate blight in the immediate area of the Project, (4) promote urban renewal and redevelopment, and (6) on an overall basis result in the betterment of community prosperity within Oneida County.

Additional Project Land and Description

The acquisition of the Additional Project Land has been represented to be essential to the development of the Project and the six (6) suite ambulatory surgery center therein that are proposed to constructed adjacent to the Wynn Hospital, because the Project by itself does not have sufficient proximately located parking.

Proposed Property Acquisition

The proposed property acquisition of the Additional Project Land involves the exercise by OCIDA of its power of eminent domain, either with or without negotiated agreements, to the property described as follows:

Reputed Owner	Address	County Tax Map No.
JP O'Brien Plumbing & Heating Supply, Inc.	411 Columbia Street	318.41-2-38

Availability of Additional Information

More particular information concerning the Additional Project Land proposed to be acquired by the OCIDA pursuant to the EDPL, including legal descriptions and maps, and the Project are available for public inspection during normal business hours at OCIDA, 584 Phoenix Drive, Rome, New York 13441.

Receipt of Comments

All persons having an interest in the Additional Project Land and the Project are invited to attend the public hearing to give oral or written statements and to submit other documentation concerning this proposed publically needed project.

ACCORDING TO EDPL §202(C)(2), THOSE PROPERTY OWNERS WHO MAY SUBSEQUENTLY WISH TO CHALLENGE THE CONDEMNATION OF THEIR PROPERTY VIA JUDICIAL REVIEW, MAY DO SO ONLY ON THE BASIS OF ISSUES, FACTS, AND OBJECTIONS RAISED AT THE HEARING.

Comments on the proposed acquisition of the Project and the Additional Project Land may be made orally or in writing at the public hearing on February 23, 2022, or presented in writing to OCIDA's address shown below on or beforeMarch 2, 2022. Comments received after the close of business on March 2, 2022 will not be considered.

Oneida County Industrial Development Agency
Attn: Chairman
584 Phoenix Drive
Rome, New York 13441

By: David C. Grow /s/
Chairman

Dated: February 2, 2022

LOCALiQ
Observer-Dispatch
Times Telegram

PO Box 631202 Cincinnati, OH 45263-1202

PROOF OF PUBLICATION

Laura Ruberto
Bond, Schoeneck & King, Pllc
501 MAIN ST
UTICA NY 13501

STATE OF NEW YORK, COUNTY OF ONEIDA

The Observer Dispatch, a newspaper published in the City of Utica, New York.
The text of the notice as published in said newspaper is as set forth below, or in the annexed exhibit, was published in the issue dated:

02/07/2022, 02/08/2022, 02/09/2022, 02/10/2022, 02/11/2022

and that the fees charged are legal.
Sworn to and subscribed before on 02/11/2022

Legal Clerk

Notary, State of WI, County of Brown
7/27/25

My commision expires

Publication Cost:	$336.68	
Order No:	6874761	# of Copies:
Customer No:	638850	1
PO #:		

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

SARAH BERTELSEN
Notary Public
State of Wisconsin

NOTICE OF PUBLIC HEARING

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY NOTICE OF PUBLIC HEARING TO BE HELD ON FEBRUARY 23, 2022 PURSUANT TO SECTIONS 201-203OF THE EMINENT DOMAIN PROCEDURE LAW IN CONNECTION WITH THE ACQUISITION OF ADDITIONAL PROJECT LAND FOR THE CENTRAL UTICA BUILDING, LLC PROJECT.

PLEASE TAKE NOTICE that a public hearing, open to all persons, will be held on February 23, 2022 at the Oneida County Legislative Chambers, Oneida County Office Building, 10th Floor, 800 Park Avenue, City of Utica, Oneida County, New York, commencing at 9:00 a.m. by the Oneida County Industrial Development Agency ("OCIDA"), pursuant to Sections 201-203 of the New York State Eminent Domain Procedure Law ("EDPL") to consider the proposed acquisition by condemnation of 411 Columbia Street (SBL No.: 318.41-2-38) in the City of Utica (the "Additional Project Land") in connection with the undertaking and development of a certain approximately 94,000 SF medical office building and a fully licensed six (6) suite ambulatory surgery center in the footprint of the Wynn Hospital located at 601 State Street (corner of State and Columbia) (the "Project") by Central Utica Building, LLC, on behalf of itself and/or an entity formed or to be formed on its behalf (collectively, the "Company"), which acquisition of the Additional Project Land has been represented by the Company to facilitate the delivery of healthcare services to the residents of Oneida County, create new and improved job opportunities, reduce unemployment, eliminate blight in the immediate area of the Project, promote urban renewal and redevelopment and on an overall basis result in the betterment of community prosperity within Oneida County. The Company has represented that the acquisition of the Additional Project Land is necessary for the development of the Project.

Pursuant to Article 2 of the EDPL, the purpose of the public hearing is to review the public use to be served by the acquisition of the Additional Project Land, and the impact of the acquisition of the Additional Project Land on the environment and residents of the locality where the Project is proposed to be constructed, and to give all interested persons an opportunity to present oral or written statements and to submit other documents concerning the Project and the acquisition of Additional Project Land proposed to be acquired pursuant to the EDPL.

The public purposes served by the Project and the Additional Project Land include: (1) improving healthcare for the community, (2) creating new and improved job opportunities, (3) reducing unemployment, (4) eliminate blight in the immediate area of the Project, (4) promote urban renewal and redevelopment, and (6) on an overall basis result in the betterment of community prosperity within Oneida County.

<u>Additional Project Land and Description</u>

The acquisition of the Additional Project Land has been represented to be essential to the development of the Project and the six (6) suite ambulatory surgery center therein that are proposed to constructed adjacent to the

Wynn Hospital, because the Project by itself does not have sufficient proximately located parking.

Proposed Property Acquisition

The proposed property acquisition of the Additional Project Land involves the exercise by OCIDA of its power of eminent domain, either with or without negotiated agreements, to the property described as follows:

Reputed Owner
JP O'Brien Plumbing & Heating Supply, Inc.

Address
411 Columbia Street
County Tax Map No.
318.41-2-38

Availability of Additional Information

More particular information concerning the Additional Project Land proposed to be acquired by the OCIDA pursuant to the EDPL, including legal descriptions and maps, and the Project are available for public inspection during normal business hours at OCIDA, 584 Phoenix Drive, Rome, New York 13441.

Receipt of Comments

All persons having an interest in the Additional Project Land and the Project are invited to attend the public hearing to give oral or written statements and to submit other documentation concerning this proposed publically needed project.

ACCORDING TO EDPL §202(C)(2), THOSE PROPERTY OWNERS WHO MAY SUBSEQUENTLY WISH TO CHALLENGE THE CONDEMNATION OF THEIR PROPERTY VIA JUDICIAL REVIEW, MAY DO SO ONLY ON THE BASIS OF ISSUES, FACTS, AND OBJECTIONS RAISED AT THE HEARING.

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Oneida County Industrial Development Agency
Attn: Chairman
584 Phoenix Drive
Rome, New York 13441
By: David C. Grow /s/
Chairman
Dated: February 2, 2022

AMENDED

AFFIDAVIT OF MAILING OF
NOTICE OF PUBLIC HEARING
ON THE PROPOSED ACQUISITION OF
ADDITIONAL PROJECT LAND FOR THE
CENTRAL UTICA BUILDING, LLC PROJECT

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

The undersigned, being duly sworn, deposes and says that I am over eighteen years of age and resides in the County of Albany, State of New York.

That on **February 3, 2022,** deponent mailed a copy of the Notice of Public Hearing, attached hereto as **Exhibit "A"**, relating to the proposed Central Utica Building, LLC Project to be undertaken by the Oneida County Industrial Development Agency, by ***Certified Mail, Return Receipt Requested*** to the following:

JP O'Brien Plumbing & Heating Supply, Inc.
411 Columbia Street
Utica, New York 13502

CERTIFIED MAIL
RE: 7224-19772
9214 7000 0000 0000 0019 38

Bowers Development, LLC
6308 Fly Road
East Syracuse, New York 13057

CERTIFIED MAIL
RE: 7224-19772
9214 7000 0000 0000 0019 25

On February 7, 2022, the Reputed Owner received the aforesaid Notice of Public Hearing. The return receipt cards evidencing the same are attached hereto as **Exhibit "B"** and made a part hereof.

I declare under penalty of perjury that I am at least eighteen years of age, and as directed thereon by depositing a true copy of same enclosed in an envelope, properly addressed, in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

Audrey M. Michasiow

Sworn to before me this
14th day of March, 2022

Notary Public – State of New York

PAUL J. GOLDMAN
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ALBANY COUNTY
ID No. 02GO4864023
COMMISSION EXPIRES: JUNE 9, 2022

M:\7224\19772\Public Hearing\Affidavit of Mailing Amended.docx

EXHIBIT "A"

NOTICE OF PUBLIC HEARING

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY
584 Phoenix Drive
Rome, New York 13441

February 3, 2022

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JP O'Brien Plumbing & Heating Supply, Inc.
411 Columbia Street
Utica, New York 13502

Bowers Development, LLC
6308 Fly Road
East Syracuse, New York 13057

Re: 411 Columbia Street, Utica, New York, Tax Map No. 318.41-2-38 (the "Property")

Dear Sir/Madam:

Notice is hereby given that a Public Hearing pursuant to New York State Eminent Domain Procedure Law ("EDPL"), will be held by the Oneida County Industrial Development Agency ("OCIDA") on the 23rd day of February, 2022 at 9:00 a.m. local time at the Oneida County Legislative Chambers, Oneida County Office Building, 10th Floor, 800 Park Avenue, City of Utica, Oneida County, New York to consider the proposed acquisition by condemnation of the Property. Enclosed please find a copy of the Notice of Public Hearing.

Should you have any questions or comments, please do not hesitate to contact me. I am,

Very truly yours,

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Shawna Papale

Shawna Papale

Authorized Representative

cc. Paul J. Goldman, Esq.
PJG/am
Enc.

P:\Customers\CUB\IDA\2022.02.03 Notice Ltr.docx

NOTICE OF PUBLIC HEARING

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY NOTICE OF PUBLIC HEARING TO BE HELD ON FEBRUARY 23, 2022 PURSUANT TO SECTIONS 201-203 OF THE EMINENT DOMAIN PROCEDURE LAW IN CONNECTION WITH THE ACQUISITION OF ADDITIONAL PROJECT LAND FOR THE

CENTRAL UTICA BUILDING, LLC PROJECT.

PLEASE TAKE NOTICE that a public hearing, open to all persons, will be held on February 23, 2022 at the Oneida County Legislative Chambers, Oneida County Office Building, 10th Floor, 800 Park Avenue, City of Utica, Oneida County, New York, commencing at 9:00 a.m. by the Oneida County Industrial Development Agency ("OCIDA"), pursuant to Sections 201-203 of the New York State Eminent Domain Procedure Law ("EDPL") to consider the proposed acquisition by condemnation of 411 Columbia Street (SBL No.: 318.41-2-38) in the City of Utica (the "Additional Project Land") in connection with the undertaking and development of a certain approximately 94,000 SF medical office building and a fully licensed six (6) suite ambulatory surgery center in the footprint of the Wynn Hospital located at 601 State Street (corner of State and Columbia) (the "Project") by Central Utica Building, LLC, on behalf of itself and/or an entity formed or to be formed on its behalf (collectively, the "Company"), which acquisition of the Additional Project Land has been represented by the Company to facilitate the delivery of healthcare services to the residents of Oneida County, create new and improved job opportunities, reduce unemployment, eliminate blight in the immediate area of the Project, promote urban renewal and redevelopment and on an overall basis result in the betterment of community prosperity within Oneida County. The Company has represented that the acquisition of the Additional Project Land is necessary for the development of the Project.

Pursuant to Article 2 of the EDPL, the purpose of the public hearing is to review the public use to be served by the acquisition of the Additional Project Land, and the impact of the acquisition of the Additional Project Land on the environment and residents of the locality where the Project is proposed to be constructed, and to give all interested persons an opportunity to present oral or written statements and to submit other documents concerning the Project and the acquisition of Additional Project Land proposed to be acquired pursuant to the EDPL.

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Additional Project Land and Description

The acquisition of the Additional Project Land has been represented to be essential to the development of the Project and the six (6) suite ambulatory surgery center therein that are proposed to constructed adjacent to the Wynn Hospital, because the Project by itself does not have sufficient proximately located parking.

Proposed Property Acquisition

The proposed property acquisition of the Additional Project Land involves the exercise by OCIDA of its power of eminent domain, either with or without negotiated agreements, to the property described as follows:

Reputed Owner	Address	County Tax Map No.
JP O'Brien Plumbing & Heating Supply, Inc.	411 Columbia Street	318.41-2-38

Availability of Additional Information

More particular information concerning the Additional Project Land proposed to be acquired by the OCIDA pursuant to the EDPL, including legal descriptions and maps, and the Project are available for public inspection during normal business hours at OCIDA, 584 Phoenix Drive, Rome, New York 13441.

Receipt of Comments

All persons having an interest in the Additional Project Land and the Project are invited to attend the public hearing to give oral or written statements and to submit other documentation concerning this proposed publically needed project.

ACCORDING TO EDPL §202(C)(2), THOSE PROPERTY OWNERS WHO MAY SUBSEQUENTLY WISH TO CHALLENGE THE CONDEMNATION OF THEIR PROPERTY VIA JUDICIAL REVIEW, MAY DO SO ONLY ON THE BASIS OF ISSUES, FACTS, AND OBJECTIONS RAISED AT THE HEARING.

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Oneida County Industrial Development Agency
Attn: Chairman
584 Phoenix Drive
Rome, New York 13441

By: David C. Grow /s/
Chairman

Dated: February 2, 2022

EXHIBIT "B"

RETURN RECEIPTS

SENDER: COMPLETE THIS SECTION

GOLDMAN ATTORNEYS PLLC
255 WASHINGTON AVENUE EXT.
SUITE 108
ALBANY NY 12205

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent ☐ Addressee
X

B. Received by (Printed Name) C-19 JP O'BRIEN
C. Date of Delivery 2-9-22

1. Article Addressed to:
JP O'BRIEN PLUMBING & HEATING SUPPLY, INC.
411 COLUMBIA STREET
UTICA NY 13502

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

9290 9000 0000 0000 0019 32

2. Article Number (Transfer from service label)
9214 7000 0050 0000 0019 36

3. Service Type ☒ Certified Mail ☐ Certified Mail Restricted Delivery

PS Form 3811 Facsimile, July 2015 Domestic Return Receipt

UNITED STATES POSTAL SERVICE
SYRACUSE NY 130
8 FEB 2022 PM 3 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9290 9000 0000 0000 0019 32

GOLDMAN ATTORNEYS PLLC
255 WASHINGTON AVENUE EXT.
SUITE 106
ALBANY NY 12205

REF 7224-19772

RECEIVED
Goldman Attorneys PLLC
FEB 16 2022
Delivery Method
Postmark Date
By:

SENDER: COMPLETE THIS SECTION

GOLDMAN ATTORNEYS PLLC
255 WASHINGTON AVENUE EXT.
SUITE 108
ALBANY NY 12205

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent ☐ Addressee
X

B. Received by (Printed Name) Sadie Malinski
C. Date of Delivery 2/12/22

1. Article Addressed to:
DOWERS DEVELOPMENT, LLC
6308 FLY ROAD
EAST SYRACUSE NY 13057

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

9290 9000 0000 0000 0019 25

2. Article Number (Transfer from service label)
9214 7000 0050 0000 0019 25

3. Service Type ☒ Certified Mail ☐ Certified Mail Restricted Delivery

PS Form 3811 Facsimile, July 2015 Domestic Return Receipt

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9290 9000 0000 0000 0019 25

GOLDMAN ATTORNEYS PLLC
255 WASHINGTON AVENUE EXT.
SUITE 106
ALBANY NY 12205

REF 7224-19772

RECEIVED
Goldman Attorneys PLLC
FEB 14 2022
Delivery Method
Postmark Date
By:

EXHIBIT "5"

Paul Goldman

From: Paul Goldman
Sent: Friday, February 4, 2022 5:12 PM
To: Patrick D. Donnelly (pdonnelly@bdflegal.com)
Cc: Jennifer Waters (jwaters@mvedge.org); Erika Browne Esq. (EBrowne@goldmanpllc.com)
Subject: Oneida County IDA
Attachments: 2022.02.03 Notice of PublicHearing.Ltr.pdf

Mr. Donnelly:

Per our discussion here is the notice of public hearing that was mailed to your client.

Should you have any questions please give me a call.

Paul J. Goldman, Esq.
Goldman Attorneys PLLC
255 Washington Avenue Extension, Suite 108
Albany, New York 12205
Direct Dial: (518) 275-4411
Office: (518) 431-0941 Ext. 105 | Fax: (518) 694-4821 | Email: pgoldman@goldmanpllc.com

The information contained in this message contains information from Goldman Attorneys PLLC, which is confidential or privileged. The information is intended for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this communication is prohibited. If you have received this e-mail message in error, please destroy this message and notify the sender by reply e-mail. Thank you.

Disclosure under IRS Circular 230: Unless expressly stated otherwise, nothing contained in this communication is intended or written to be used, nor may it be relied upon or used, (1) by any taxpayer for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code, and/or (2) by any person to support the promotion or marketing of or to recommend any Federal tax transaction(s) or matter(s) addressed in this communication.

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY
584 Phoenix Drive
Rome, New York 13441

February 3, 2022

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JP O'Brien Plumbing & Heating Supply, Inc.
411 Columbia Street
Utica, New York 13502

Bowers Development, LLC
6308 Fly Road
East Syracuse, New York 13057

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Should you have any questions or comments, please do not hesitate to contact me. I am,

Very truly yours,

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Shawna Papale

Shawna Papale

Authorized Representative

cc. Paul J. Goldman, Esq.
PJG/am
Enc.

P:\Customers\CUB\IDA\2022.02.03 Notice Ltr.docx

NOTICE OF PUBLIC HEARING

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JP O'Brien Plumbing & Heating Supply, Inc.	411 Columbia Street	318.41-2-38

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Receipt of Comments

All persons having an interest in the Additional Project Land and the Project are invited to attend the public hearing to give oral or written statements and to submit other documentation concerning this proposed publically needed project.

ACCORDING TO EDPL §202(C)(2), THOSE PROPERTY OWNERS WHO MAY SUBSEQUENTLY WISH TO CHALLENGE THE CONDEMNATION OF THEIR PROPERTY VIA JUDICIAL REVIEW, MAY DO SO ONLY ON THE BASIS OF ISSUES, FACTS, AND OBJECTIONS RAISED AT THE HEARING.

Comments on the proposed acquisition of the Project and the Additional Project Land may be made orally or in writing at the public hearing on February 23, 2022, or presented in writing to OCIDA's address shown below on or beforeMarch 2, 2022. Comments received after the close of business on March 2, 2022 will not be considered.

Oneida County Industrial Development Agency
Attn: Chairman
584 Phoenix Drive
Rome, New York 13441

By: David C. Grow /s/
Chairman

Dated: February 2, 2022

EXHIBIT "6"

1 ----------
2 ONEIDA COUNTY INDUSTRIAL DEVELOPMENT
3 AGENCY
4 PUBLIC HEARING
5 Re: 411 Columbia Street, Utica, New York
6 Tax Map No. 318.41-2-38
7
8 ----------
9 *REMOTE PUBLIC HEARING*
10 HELD: WEDNESDAY, FEBRUARY 23, 2022
11 9 a.m. - 9:26 a.m.
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2 This ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY
3 PUBLIC HEARING, held via ZOOM VIDEOCONFERENCING
4 was reported via steno writer by DEBORAH M.
5 MCBYRNE, Certified Court Reporter and Certified
6 Notary Public within and for the State of New
7 York
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1 **A P P E A R A N C E S:**

2 **ALL PARTIES APPEARED REMOTELY**

3 ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

4 584 PHOENIX DRIVE

5 ROME, NY 13441

6 MICHAEL FITZGERALD, VICE CHAIR

7 SHAWNA PAPALE, SECRETARY/EXECUTIVE DIRECTOR

8 JENNIFER WATERS, ASSISTANT SECRETARY

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1 **REMOTE OATH BY REPORTER ACKNOWLEDGEMENT**

2 The parties participating in this hearing
3 acknowledge that the reporter is not physically
4 present in the deposition room and that he/she
5 will be reporting this deposition remotely.
6 They further acknowledge that, in lieu of an
7 oath administered in person, the reporter will
8 administer the oath remotely, pursuant to
9 Executive Order Number 202.7, issued by New York
10 State Governor Andrew M. Cuomo on March 19,
11 2020. All parties consent to this arrangement
12 and waive any objections to this manner of
13 reporting.
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1 **I N D E X**

DESCRIPTION	BY	PAGE
Opening Remark	Ms. Waters	6
DESCRIPTION	BY	
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Comment	Mr. Bob Schofield	28
Comment	Dr. Peter Hotvett	30

MS. WATERS: Good morning, everyone. All right. It is 9 o'clock. We are going to get started.

All right. So this is the public hearing for the Central Utica Building, LLC project. Does anyone need me to read the Notice of Public Hearing aloud?

UNIDENTIFIED SPEAKER: Yes.

MS. WATERS: Okay.

Notice is hereby given that a public hearing pursuant to Article 18A of the New York State General Municipal Law will be held by the Oneida --

Oh, hold on. The wrong public hearing notice.

Please take notice that a public hearing opened to all persons will be held on February 23, 2022, at the Oneida County Legislature Chambers, Oneida County Office Building, 10th Floor, 800 Park Ave., City of Utica, Oneida County, New York, commencing at 9 o'clock by the Oneida

County Industrial Development Agency, pursuant to Sections 201-203 of the New York State Eminent Domain Procedure Law to consider the proposed acquisition by the condemnation of 411 Columbia Street, SBL Number: 318.41-2-38, in the City of Utica, in connection with the undertaking and development of a certain approximately 94,000-square-foot medical office building and a fully licensed six-suite ambulatory surgery center in the footprint of the Wynn Hospital, located at 601 State Street, corner of State and Columbia, by Central Utica Building, LLC, on behalf of itself and/or an entity formed or to be formed on its behalf, which acquisition of the Additional Project Land has been represented by the Company to facilitate the delivery of healthcare services to the residents of Oneida County, create new and improved job opportunities, reduce unemployment, eliminate blight in the

immediate area of the Project, promote urban renewal and redevelopment and, on an overall basis, result in betterment of community prosperity within Oneida County.

The Company has represented that the acquisition of the Additional Project Land is necessary for the development of the Project.

Pursuant to Article 2 of the EDPL, the purpose of the project -- of the public hearing is to review the public use to be served by the acquisition of the Additional Project Land, and the impact of the acquisition of the Additional Project Land on the environment and the residents of the locality where the Project is proposed to be constructed, and to give all interested persons an opportunity to present oral or written statements and to submit other documents concerning the Project and the acquisition of Additional Project Land proposed to be acquired

pursuant to the EDPL.

The public purposes served by the Project and the Additional Project Land include:

1: Improving healthcare for the community;

2: Creating new and improved job opportunities;

3: Reducing unemployment;

4: Eliminate blight in the immediate area of the Project;

4: [sic] Promote urban renewal and redevelopment and;

6: On an overall basis, result in the betterment of community prosperity within Oneida County.

The acquisition of the Additional Project Land has been represented to be essential to the development of the Project and the six-suite ambulatory surgery center therein that are proposed to be constructed adjacent to the Wynn Hospital, because the

Project by itself does not have sufficient proximately located parking.

The proposed property acquisition of the Additional Project Land involves the exercise by OCIDA of its power of eminent domain, either with or without negotiated agreements to the property as described as follows:

JP O'Brien Plumbing & Heating Supply, 411 Columbia Street, County Tax Map Number 318.41-2-38.

More particular information concerning the Additional Project Land proposed to be acquired by the OCIDA pursuant to the EDPL, including legal descriptions and maps in the projects -- and the Project are available for public inspection during normal business hours at the OCIDA's office at 584 Phoenix Drive, Rome, New York.

All persons having an interest in the Additional Project Land and the Project

are invited to attend the public hearing, which is happening today, to give oral or written statements and to submit other documentation concerning this project publicly needed -- this proposed publicly needed project.

According to EDPL, those property owners who may subsequently wish to challenge the condemnation of their property via judicial review, may do so only on the basis of issues, facts, and obligations -- objections raised at the hearing.

Comments on the proposed acquisition of the Project and Additional Project Land may be made orally or in writing at this public hearing or presented in writing to the OCIDA's address on or before March 2nd, 2022. Comments received after the close of business on March 2nd, 2022 will not be considered.

Great.

Has everybody who would like to make a comment signed in?

Great.

So how we are going to run this Public hearing, it is now open. I will be going down the list of speakers as people signed in. If you have a comment, please step up to the microphone to make said public comment. I will remind everybody that this is a public hearing. Please keep to the issues in the description that I just read. There will be no going back and forth between participants.

So the first person I have is Patrick Donnelly.

MR. DONNELLY: Good morning. I'm Patrick Donnelly with Brown Duke & Fogel. We represent Bowers Development, LLC, who I'll refer to as "Bowers."

I've submitted a letter to you on our objections to the proposed taking of the 411 Columbia Street property by eminent

2 domain, and the owner, O'Brien, has also.
3 Bowers is one of the largest and
4 most active developers in Utica and has
5 invested a significant amount of time,
6 effort and money into developing and
7 restoring buildings in Utica.
8 Bowers has a contract to purchase
9 the property and intends to construct a
10 brand new state-of-the art medical office
11 building on the property that will have
12 more square footage than the MOB proposed
13 by Central Utica Building, who I'll refer
14 to as CUB.
15 Under the circumstances, it will
16 be outrageous and unlawful for OCIDA to
17 take the property by eminent domain.
18 First, OCIDA cannot take the property by
19 eminent domain because the CUB project is
20 outside the statutory authority of OCIDA.
21 Industrial development agencies are
22 creatures of statute and are limited to
23 powers provided by statute. Article 18A of

the General Municipal Law contains the provisions of law governing the authority and powers of industrial development agencies.

GML Section 858 in Article 18A provides the current list of projects for which industrial development agencies have authority. The list under GML 858 does not include hospital or health-related projects. The proposed CUB project is a hospital or health-related project. Therefore, the CUB project is not a type of project which OCIDA has jurisdiction or authority.

Second, proceeding with the eminent domain taking would be contrary to OCIDA's mission. OCIDA's mission is to encourage development, not to interfere with developers. Bowers already intends to develop the property as an MOB. Interfering with Bowers, one of the largest and most active developers in the City of

Utica is contrary to and defeats OCIDA's purpose.

Third, Bowers plans to transition the current plumbing business on the property into a new location. CUB has not presented plans for any such transition. It seems CUB has little regard for the property owner and believes it can push everyone out of its way.

Fourth, any taking by eminent domain must be for a public purpose and the private benefit must not be dominant. Here, the property is not being taken for a public purpose and the private benefit to CUB is dominant. Taking property from one private entity to give it to another private entity for the same use is unlawful. Here, OCIDA is doing just that.

Fifth, all of this indicates that CUB and OCIDA are acting in bad faith and OCIDA has failed to make good faith efforts to negotiate with the property holders and

avoid condemnation.

Six, OCIDA failed to comply with just compensation requirements for a sure and certain source of compensation, which we discuss further in the letter. Here there's not even a bond to secure the payment of eminent domain damages; e.g., the value of the property in its highest and best use.

Seven, OCIDA failed to consider alternatives. Here there are a number of alternatives. For example, there are a number of already existing parking lots and garages in the immediate vicinity of the proposed CUB project that could be used for parking or converted into parking garages.

Eight, OCIDA's failure to comply with SEQR. OCIDA's required to do its own review and the actions here is the taking of the property by eminent domain under the current circumstances. OCIDA may not rely on SEQR review done by -- done for planning

2 purposes of the hospital years ago.

3 Therefore, for all these reasons,

4 it would be outrageous and unlawful for

5 OCIDA to take the property by eminent

6 domain. Thank you.

7 **MS. WATERS:** Thank you.

8 Up next I have, if I can read the

9 writing, Mr. MacIsaac.

10 **DR. MacISAAC:** Hi. Good morning.

11 My name is Hugh MacIsaac. I'm a local

12 physician. I'm one of the members of

13 Central Utica Building, LLC, the developer

14 of the project.

15 I am a cardiologist at Central

16 New York Cardiology, which will be one of

17 the main tenants in the medical office

18 building that we intend to develop at 601

19 State Street, presuming that we can obtain

20 adequate amount of space and parking for

21 such a facility.

22 Central Utica Building proposes

23 to develop approximately a 94,000 square

feet medical office building at 601 State Street.

Medical office building is a key component of a new state-of-the-art medical campus being developed in downtown Utica. The centerpiece is the new Wynn Hospital. The building was included in MVHS's certificate of need application to build the Wynn Hospital, which was approved by the Department of Health in 2019.

The medical office building, which was approved by the Department of Health are part of the redevelopment of areas of downtown Utica that had previously been impacted with blight.

It's anticipated that this development will lead to additional development in the immediate surrounding areas as evidenced by the new Double Tree Hilton hotel located on Lafayette Street.

The medical office building itself will house first a

1 six-operating-room, Medicare-certified,
2 multi-specialty ambulatory surgical center.
3 Second, office space for key
4 hospital-based or hospital-centered medical
5 specialties that require proximity to the
6 Wynn Hospital to provide their services.
7 This includes cardiology, cardiac surgery,
8 advanced endoscopy, a brain surgery stroke
9 center and other medical specialties.
10 Third, supporting services in an
11 imaging center and a laboratory center,
12 which include radiology, CT, fluoroscopy,
13 PET scan, general radiology and general
14 ultrasound.
15 Overall, this project will
16 significantly enhance, expand and make more
17 accessible delivery of healthcare services
18 to the entire community.
19 The location of the medical
20 office building adjacent to the Wynn
21 Hospital will enable the development of a
22 seamless and integrated healthcare delivery
23

2 system among the Wynn Hospital providers
3 located in the medical office and thereby
4 improving the quality and accessibility of
5 healthcare services in the community.
6 These types of services are essential to a
7 modern hospital.
8 In the old days, everything a
9 hospital did provided revenue and was
10 fiscally positively impactful. Nowadays,
11 hospitals have mandates to provide a number
12 of services that are challenging and they
13 require services such as this, effectively
14 to complete the project and maintain
15 physical health of the hospital going
16 forward so that it can provide quality
17 modern healthcare for generations to come
18 in this community.
19 Now, the medical office building,
20 which was always intended to be privately
21 owned will add to the tax base of the City
22 of Utica.
23 In October 2019, the principles

2 of Central Utica Builders who, like me, are
3 physicians and cardiologists, other
4 specialties as well, neurosurgery, urology,
5 began having discussions about developing a
6 medical office building within the Wynn
7 Hospital campus. Both MVHS and our
8 physicians have been committed to a
9 collaborative approach to improving the
10 quality and accessibility of healthcare in
11 our area. The hospital has over a century
12 track record of providing healthcare to
13 this community, and the cardiology group
14 has over 40 years track record of providing
15 24/7 care and attention to our community.
16 Based on these discussions, if we
17 agreed to develop and finance the building,
18 this building, as part of the Wynn Hospital
19 campus, Central Utica Builders will provide
20 all the required equity, and its individual
21 owners will provide all required credit
22 support for the construction loan to
23 construct this building. All of the

2 commitments for this equity are already in
3 place and Central Utica Building is
4 evaluating various loan proposals as we
5 speak.
6 Because the building will be
7 privately owned, it will add to the tax
8 base for the City of Utica. We have
9 committed tenants for over 90 percent of
10 the building space already. This includes
11 the ambulatory surgical center, medical
12 specialty offices and the imaging lab. As
13 a result, this project is immediately
14 financeable as confirmed by the proposals
15 that have been provided.
16 The centerpiece of the medical
17 office building is the six-OR, Article 28,
18 Medicare-certified ambulatory surgery
19 center. The surgery center will be owned
20 for a for-profit proprietary entity in
21 conjunction with the hospital. And because
22 the Wynn Hospital will essentially be an
23 inpatient facility, the outpatient surgery

2 center will be required to handle a current
3 volume of surgery being performed at St.
4 Elizabeth and St. Luke's Hospital to move
5 to this ambulatory surgery center. Many
6 types of surgeries are currently performed
7 in an inpatient setting, but it's
8 anticipated that they will be transformed
9 over to outpatient surgery in the years to
10 come to an even greater extent. Advances
11 such as laparoscopic surgery, robotic
12 surgery and other minimally-evasive things
13 are ideally suited for patients to go home
14 the same day and to have their whole
15 experience in an ambulatory surgical
16 center. So this new six-OR ambulatory
17 surgical center is absolutely a vital
18 addition to the area's healthcare
19 community, as well as the hospital's
20 complete package of services offered.
21 So in addition to creating over
22 100 construction jobs, the medical office
23 building is expected to create a number of

2 new jobs in the healthcare field from
3 nurses, technicians and also physicians.
4 It's our intention to attract and recruit
5 medical specialists, to bring new services
6 and provide new entities to this community
7 so that people will have less need to
8 travel to Syracuse, Albany or New York City
9 for their medical care. We've already seen
10 this over the past five years. We've
11 attracted a number of new physicians in the
12 areas of structural heart. We've added
13 electrophysiology. We've added new cardiac
14 surgeons. This is a trend that is in place
15 and absolutely must go forward in the years
16 to come.
17 We cannot build the medical
18 office building unless we have sufficient
19 parking adjacent to the building. Patients
20 who attend ambulatory surgical centers are
21 patients who see neurosurgeons, patients
22 who see cardiologists, are often infirm.
23 They may be post-op from a surgical

2 procedure. They may be elderly. They may
3 have already suffered from a cardiac
4 condition or a stroke and they cannot be
5 expected to walk a number of blocks to
6 reach their -- from their transportation to
7 their medical care center. It's very
8 important that these patients have adjacent
9 parking and that the process of them
10 attending their medical visits is
11 facilitated for them.
12 The 411 Columbia Street property
13 which we are requesting OCIDA condemn is
14 located contiguous to the proposed medical
15 office building and this space is needed to
16 support our parking requirements.
17 Now, unless we can secure
18 ownership of this property for parking, we
19 do not feel that it is feasible to proceed
20 with building the medical office building
21 at 601 State Street and, therefore, the
22 community will not benefit by having access
23 to this prized ambulatory surgical center,

imaging center and specialized medical services within the campus of the Wynn Hospital. Thank you.

MS. WATERS: Thank you.

All right. Up next we have Michael Licata.

And I would like to note that it is County policy that all visitors do need to be masked. So please, if you are a visitor, please remember to put your mask on. Thank you.

Mr. Licata?

MR. LICATA: Can I remove it to speak?

MS. WATERS: Yes.

MR. LICATA: Thank you very much.

I am Mike Licata, Vice President of Bowers Development.

And in listening to the comments, we would start off by saying we agree. We agree that everything that's been said so far -- pretty much everything is accurate.

The downtown area will benefit tremendously by having extra medical office space. We believe that urban blight will be addressed. We agree that patient care will be enhanced.

What we don't understand is why, when we're trying to build something that will assist in that endeavor, it's being taken. If we are to be able to be collaborative, as Dr. MacIsaac had said, we can build a project that connects to 595 parking spaces immediately adjacent, and that takes care of the problem right there.

We have received no response from the hospital to discuss this, and that has been a primary frustration on our part. What we're asking for is open and collaborative conversation and we're not getting it.

So we are going to move forward with our plans to build a medical office building on that site, one way or another,

2 in order to provide the services that have
3 been discussed here, and that is the reason
4 we are opposing the taking of this
5 property.
6 And as Patrick had said, the
7 process that is being undertaken so far is
8 unlawful. Thank you.
9 **MS. WATERS:** Thank you.
10 Up next, Bob Schofield.
11 **MR. SCHOFIELD:** Good morning. I
12 am Bob Schofield, Executive Vice President
13 from Mohawk Valley Health System and
14 overseeing the construction of the Wynn
15 Hospital, and I will also oversee the
16 construction of the MVHS entities within
17 the MOB.
18 I won't repeat the items that
19 Dr. MacIsaac spoke to. He said them very
20 well. Thank you.
21 Just a couple clarification
22 points and then we do have a written
23 documents that we'll submit.

First, the development of the medical office building by a third-party developer has been part of the MVHS plan from day one. It's part of our City Planning Board presentation, part of our certificate of need, as well as part of our New York State grant, which we received $300 million for the construction of the Wynn Hospital.

The premise is the fact that we are building a community downtown medical campus. That medical campus will support inpatient care, outpatient care, education and convenience to the patients of this community.

Prior to the selection of our partner for the medical office building, we did have other partners, including Bowers. Over a course of time, we made the decision to go a different direction, hence where we are here today.

We continue to move forward. We

2 have nearly completed schematic design of
3 those spaces inside the medical office
4 building. We hope to have that completed
5 shortly.
6 The timing of this is essential,
7 as I indicated previously, that the MVHS is
8 going to be building an inpatient facility.
9 Those entities inside the medical office
10 building, specifically the medical office
11 of the ambulatory surgery center are
12 essential to be up and operational prior to
13 our opening.
14 If not, we may not be able to
15 open the Wynn Hospital on time, which will
16 be a significant financial impact not only
17 to the MVHS, but to the community as a
18 whole. Thank you.
19 **MS. WATERS:** Thank you.
20 The last one I have is Peter.
21 **DR. HOTVETT:** Hello. My name is
22 Dr. Pete Hotvett. I am also a member of
23 the Central Utica Building, LLC and a

2 26-year member of Central New York
3 Cardiology.
4 I'd like to highlight and expand
5 on a few points that Dr. MacIsaac
6 previously made.
7 First, I want to state, it
8 appears there's no dispute of any of the
9 parties that there's need and demand for a
10 medical office building adjacent to the
11 Wynn Hospital footprint, which is in the
12 public interest for the residents in the
13 City of Utica and the surrounding areas.
14 The services to be made in this project
15 will be transformative to the delivery of
16 healthcare in our community.
17 This will include a six-OR
18 multi-specialty ambulatory surgery center,
19 which will handle outpatient surgical cases
20 previously performed in the hospital of the
21 St. Elizabeth's and St. Luke's campuses.
22 It will provide significant cost savings
23 for patients and payers.

2 Secondly, the office space for
3 key hospital-based or hospital-centric
4 medical personnel, including cardiology,
5 cardiac surgery, neurosurgery and others,
6 will be close to the Wynn Hospital and
7 important for these patients which are
8 needing collaborative care.
9 Third, the project will attract
10 medical subspecialists to the area that
11 would not otherwise locate here. Like I
12 said, I came here 26 years ago because of
13 the promise of opening an open-heart center
14 to do cardiac surgery, and which was not
15 then an opportunity. In the same vein, we
16 are looking to attract new physicians for
17 structural heart and other services which
18 we don't currently offer in this community
19 and people have to leave town for.
20 We currently have committed
21 tenants for just over 90 percent of the
22 building. We have the support of MVHS.
23 The project is real and ready for

2 commencement and, as the hospital has
3 indicated, the timing of the project is
4 essential so we can coordinate, because as
5 we've pointed out, the hospital itself is
6 based on inpatient services. This is the
7 collaborative outpatient piece of the
8 puzzle.
9 The 411 Columbia Street property
10 which we are requesting OCIDA to condemn is
11 located contiguous to the building and
12 within the footprint of the plan
13 development. It is needed for the parking
14 requirements for the services of patients.
15 Thank you very much.
16 **MS. WATERS:** Thank you.
17 Is there anyone else who would
18 like to make any public comment?
19 (No verbal/audible response.)
20 **MS. WATERS:** Great. Hearing
21 none, I will note that I do have a written
22 statement from Patrick Donnelly that will
23 be entered into the record and -- as well

as -- and then I'll have Bob's written statement as well that will be entered into the record.

And I'll note that if any written comments would like to be made, they can be made and submitted to our office via e-mail or paper copy, as well, by March 2nd.

This public hearing will now conclude. Thank you, everybody.

(Whereupon, the HEARING concluded at 9:26 a.m.)

1
2 REPORTER'S CERTIFICATE
3
4 I, DEBORAH McBYRNE, a Court Reporter
5 and Notary Public in and for the State of New
6 York, do hereby certify that I recorded
7 stenographically the proceedings herein at the
8 time and place noted in the heading hereof, and
9 that the foregoing transcript is true and
10 accurate to the best of my knowledge, skill and
11 ability.
12 IN WITNESS WHEREOF, I have hereunto
13 set my hand.
14
15
16
17 DEBORAH McBYRNE
18
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DR. HOTVETT: [1] 30/21
DR. MacISAAC: [1] 17/10
MR. DONNELLY: [1] 12/17
MR. LICATA: [2] 26/14 26/17
MR. SCHOFIELD: [1] 28/11
MS. WATERS: [9] 5/10 6/10 17/7 26/5 26/16 28/9 30/19 33/16 33/20
UNIDENTIFIED SPEAKER: [1] 6/9

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595 [1] 27/12

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601 [4] 7/13 17/18 18/2 25/21

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858 [2] 14/6 14/9

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94,000-square-foot [1] 7/10
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acquired [2] 8/23 10/15
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acting [1] 15/21
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added [2] 24/12 24/13
addressed [1] 27/5
adjacent [6] 9/23 19/21 24/19 25/8 27/13 31/10
administer [1] 4/8
administered [1] 4/7
Advances [1] 23/10
agencies [3] 13/21 14/5 14/8
agreed [1] 21/17
agreements [1] 10/8
Albany [1] 24/8
aloud [1] 6/8
alternatives [2] 16/12 16/13
ambulatory [12] 7/11 9/21 19/3 22/11 22/18 23/5 23/15 23/16 24/20 25/23 30/11 31/18
Andrew [1] 4/10
anticipated [2] 18/17 23/8
APPEARED [1] 3/2
appears [1] 31/8
approved [2] 18/10 18/13
area's [1] 23/18
areas [4] 18/15 18/20 24/12 31/13
asking [1] 27/18
attending [1] 25/10
attracted [1] 24/11
audible [1] 33/19
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B

based [4] 19/5 21/16 32/3 33/6
behalf [2] 7/15 7/17
believes [1] 15/9
betterment [2] 8/4 9/16
blight [4] 7/23 9/11 18/16 27/4
blocks [1] 25/5
Bob [3] 5/8 28/10 28/12
Bob's [1] 34/2
Bowers [9] 12/19 12/20 13/3 13/8 14/20 14/22 15/4 26/19 29/19
Builders [2] 21/2 21/19
buildings [1] 13/7

C

campuses [1] 31/21
cannot [3] 13/18 24/17 25/4
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cardiologist [1] 17/15
cardiologists [2] 21/3 24/22
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centered [1] 19/5
centerpiece [2] 18/7 22/16
centers [1] 24/20
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EXHIBIT "7"

ONEIDA COUNTY CLERK

SANDRA J. DEPERNO

Receipt

Receipt Date: 03/16/2022 03:25:30 PM
RECEIPT # 20221087584

Recording Clerk: LG
Cash Drawer: CASH2
Rec'd Frm: GOLDMAN ATTORNEYS PLLC
Rec'd In Person

Instr#: F2022-000025
DOC: MISC FILED
OR Party: ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY
EE Party: MOHAWK VALLEY HEALTH SYSTEMS

Recording Fees

Misc Filed - Amount	$0.00
DOCUMENT TOTAL: ---->	$0.00

Receipt Summary
Document Count: 1

TOTAL RECEIPT: ---->	$0.00
TOTAL RECEIVED: ---->	$0.00
CASH BACK: ---->	$0.00

GOLDMAN ATTORNEYS PLLC
Attorney and Counselors at Law

255 WASHINGTON AVENUE EXTENSION, SUITE 108
ALBANY, NEW YORK 12205

TELEPHONE: (518) 431-0941
FAX: (518) 694-4821

Paul J. Goldman
pgoldman@goldmanpllc.com

March 16, 2022

HAND DELIVERY

The Office of the Oneida County Clerk
800 Park Avenue
Utica, New York 13501

Re: Eminent Domain Procedure Law §203 Public Hearing with respect to 411 Columbia Street, City of Utica, Oneida County, New York a/k/a Section 318.41, Block 2, Lot 38 (the "Property")

Dear Sir or Madam:

Please be advised that this firm represents the Oneida County Industrial Development Agency ("OCIDA") in connection with its evaluation of the Need and Location for a Public Project consisting of a parking lot to be constructed on the Property pursuant to Article 2 of the Eminent Domain Procedure Law ("EDPL"). I am enclosing herewith copies of the record of the public hearing under EDPL §203 which are to be made available to the public for its examination without cost during the normal business hours. The record consists of the following documents:

1) The Mohawk Valley Health Systems ("MVHS") Project Area map
2) Oneida County Local Development Corporation ("OCLDC") Application for Financial Assistance
3) MVHS Full EAF
4) OCLDC Lead Agency Letter
5) City of Utica Planning Board (the "Planning Board") Agenda 2-15-18
6) Planning Board Resolution 2-15-18
7) Positive Declaration of the Planning Board
8) Draft Scoping Document of the Planning Board
9) Final Scoping Document of the Planning Board
10) Public Scoping Notice from the Planning Board
11) DEIS combined [available digitally]
12) Notice of Completion of DEIS and Notice of Hearing from the Planning Board
13) Notice of Completion of EIS from the Planning Board
14) Final EIS Combined from the Planning Board available digitally on the Website of the Planning Board at https://www.cityofutica.com/departments/urban-and-economic-development/planning/mvhs-seqra/index
15) Draft Findings Statement of the Planning Board
16) Findings Statement Mitigation Summary of the Planning Board
17) Eminent Domain Request 1-14-22 from Central Utica Building LLC ("CUB")
18) Notice of Public Hearing
19) Affidavit of Mailing to Owner and Contract Vendee of the Public Hearing
20) Affidavit of Publication of the Public Hearing

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03/16/2022 03:25:30 PM
MISC FILED
1087 Pages
Sandra J. DePerno, Oneida County Clerk
Clerk: LG
20221087584

21) Letter from James P. O'Brien as the Owner of the Property
22) Letter from Attorney for Bowers Development LLC, as Contract Vendee of the Property, with attachments
23) Other Public comments submitted to EDGE at the Public Hearing and later
24) CUB Schematic and tax parcel map
25) MVHS Public Hearing Statement
26) CUB Public Hearing Sign-in Sheet
27) Transcript of the Public Hearing

If a member of the public makes a request for copies of all or any portion the above information, EDPL §203 permits charging for such copies.

Further notice is hereby given that the Public may comment on all or any portion of the attached documents by providing written comment to the OCIDA at c/o Mohawk Valley Edge, 584 Phoenix Drive, Rome, New York 13441 which comment must be submitted to the OCIDA on or before March 30, 2022 at 5.00 PM. Comments will be accepted by the OCIDA by hand delivery and/or email to jwaters@mvedge.org. Finally, it is respectfully requested that comments not be repetitive with the comments previously made.

Very truly yours,

GOLDMAN ATTORNEYS PLLC

Paul J. Goldman

GOLDMAN ATTORNEYS PLLC
Attorney and Counselors at Law

255 WASHINGTON AVENUE EXTENSION, SUITE 108
ALBANY, NEW YORK 12205

TELEPHONE: (518) 431-0941
FAX: (518) 694-4821

Paul J. Goldman
pgoldman@goldmanpllc.com

March 23, 2022

HAND DELIVERY

The Office of the Oneida County Clerk
800 Park Avenue
Utica, New York 13501

Re: Eminent Domain Procedure Law §203 Public Hearing with respect to 411 Columbia Street, City of Utica, Oneida County, New York a/k/a Section 318.41, Block 2, Lot 38 (the "Property")

Dear Sir or Madam:

Please be advised that this firm represents the Oneida County Industrial Development Agency ("OCIDA") in connection with its evaluation of the Need and Location for a Public Project consisting of a parking lot to be constructed on the Property pursuant to Article 2 of the Eminent Domain Procedure Law ("EDPL"). As a supplement to the filing made by the OCIDA that was recorded in the Office of the Oneida County Clerk on March 16, 2022 in the Miscellaneous Records as F2022-000025 ("Miscellaneous Filing"), I am attaching a certain document that was filed with the OCIDA and made part of the public record made available for public inspection at the OCIDA, but was inadvertently not including within the Miscellaneous Filing consisting of the following document:

1) Letter from Attorney for Bowers Development LLC, as Contract Vendee of the Property, with attachments dated March 2, 2022.

If a member of the public makes a request for copies of all or any portion the above information, EDPL §203 permits charging for such copies.

Further notice is hereby given that the Public may comment on all or any portion of the attached documents by providing written comment to the OCIDA at c/o Mohawk Valley Edge, 584 Phoenix Drive, Rome, New York 13441 which comment must be submitted to the OCIDA on or before March 30, 2022 at 5.00 PM. Comments will be accepted by the OCIDA by hand delivery and/or email to jwaters@mvedge.org. Finally, it is respectfully requested that comments not be repetitive with the comments previously made.

Very truly yours,

GOLDMAN ATTORNEYS PLLC

Paul J. Goldman

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EXHIBIT "8"

CENTRAL NEW YORK BUILDING, LLC

March 1, 2022

BY E-MAIL
Shawna M. Papale, Executive Director
Oneida County Industrial Development Agency
584 Phoenix Drive
Rome, New York 13441

Re: Central Utica Building Project/Follow-Up to February 23 Public Hearing

Dear Ms. Papale:

Based on comments made by Bowers Development, LLC and its counsel at OCIDA's February 23 Public Hearing there appears to be no dispute that there is a need for a medical office building within the Wynn Hospital footprint, in general, and on the block on which the 411 Columbia Street property ("O'Brien Parcel") is located, in particular. MVHS has consistently represented that it is crucial that the six OR, Medicare-certified ambulatory surgery center developed by MVHS and local surgeons opens prior to the opening of the Wynn Hospital, which is expected to occur in September, 2023. The ambulatory surgery center is the centerpiece of the medical office building (the "MOB") to be developed by Central Utica Building, LLC ("CUB") at 601 State Street (corner of State and Columbia). At the Public Hearing CUB made clear that its MOB project is real and ready to go. Provided that the O'Brien Parcel can be timely acquired to complete the MOB's property assemblage, the building and ambulatory surgery center can be completed and opened within MVHS' required timeframe.

The purpose of this letter is to provide OCIDA with an update of the status of the project.

Lease Commitments

- The MOB will be approximately 93,000 sf, 17,000 sf of which will be common areas including lobby, green roof, delivery area, stairwells, mechanical room, etc.
- Of the ~77,000 sf available for lease, CUB has commitments for ~68,000 sf. A portion of the unleased space will be made available to an operator of a café or coffee shop and one or more small medical practices.
- The lease commitments, each of which is for at least 15 years, are as follows:
    - Ambulatory surgery center space: ~17,000 sf
    - Central New York Cardiology space: ~29,000 sf
    - MVHS space: ~22,000 sf (includes an imaging suite, lab and hospital-based physician offices)

Project Status

- CUB has entered into the following key contracts with respect to the design and construction of the MOB:
  - Standard Form of Agreement Between Owner and Architect dated June 24, 2021 between CUB and Foit-Albert Associates, architect.
  - Standard Form of Agreement Between Owner and Construction Manager dated October 14, 2021 between CUB and Hueber Breuer Construction Company, Inc.
  - CHA Civil Engineer Agreement dated May 4, 2021 between CUB and CHA Consulting, Inc.
  - Agreement for Owner's Representative Services dated May 4, 2021 between CUB and CHA Consulting, Inc.
- Applications for Site Plan Approval and a Special Use Permit have been submitted to the City of Utica Planning Board
- A copy of CUB's construction schedule prepared by Hueber Breuer Construction Company, Inc. is attached showing a completion date of July 2023.
- Substantial design and space planning work has been performed for the committed occupants:
  - A copy of the space plan for the ASC is attached.
  - A copy of the space plan for MVHS' imaging suite is attached.
  - A copy of the space plan for the Central New York Cardiology suite is attached.
- MVHS is preparing and plans to submit a certificate of need (CON) application for the construction and operation of the ASC to the Department of Health within the next four to six weeks.

Financing

- Attached is a letter from Charles Cronin, President of Axiom Capital Corporation, a commercial real estate finance and advisory firm that CUB has retained to source its financing, representing that the MOB project is financeable based on its anticipated project costs, lease commitments and CUB's projected equity infusion. CUB cannot solicit and evaluate funding commitments until it knows that it has a project to finance—which will require the acquisition of the O'Brien Parcel.

- The members of CUB have, to date, made approximately $1.1 million in capital contributions to CUB, $350,000 of which has been spent on various project costs. The balance of their capital contributions will be made within 10 days following a capital call.

Please advise if you have any questions or need any further information.

Very truly yours,

Michael Kelberman

Michael Kelberman, MD

GENERAL FF&E NOTES

1. FURNITURE, FIXTURES, & EQUIPMENT PLANS SHOW RAFE (FRAMEWORK/FRAME AND/OR PANEL/WORKSURFACE) PROVIDE NEW AND DOCKING FOR ALL NEW ACQUIRED RAFE.

2. ALL DOCKING STATIONS WITH A LED PLUG COORDINATE EXACT LOCATIONS AND MOUNTING HEIGHTS WITH SITE OWNER AND OWNER PRIOR TO INSTALLATION.

3. ALL OFCI ITEMS ARE SHOWN WITH A DASHED LINE FOR REFERENCE AND FOR COORDINATION OF NEW INFRASTRUCTURE.

4. PROVIDE ALL FIRE TOWELS & EQUIPMENT CABINETS AT ALL NEW ORIS PROVIDED AS PART OF THIS PROJECT.

5. COORDINATE PRE-FIX MOUNTING HEIGHTS OF WALL MOUNTED EQUIPMENT WITH MANUFACTURER DATA SHEET SPECS. TYPICAL HEIGHTS ARE SHOWN FOR REFERENCE. COORDINATE EXACT LOCATIONS IN FIELD WITH OWNER PRIOR TO PRE-INSTALLATION.

CFCI ACCESSORIES LEGEND

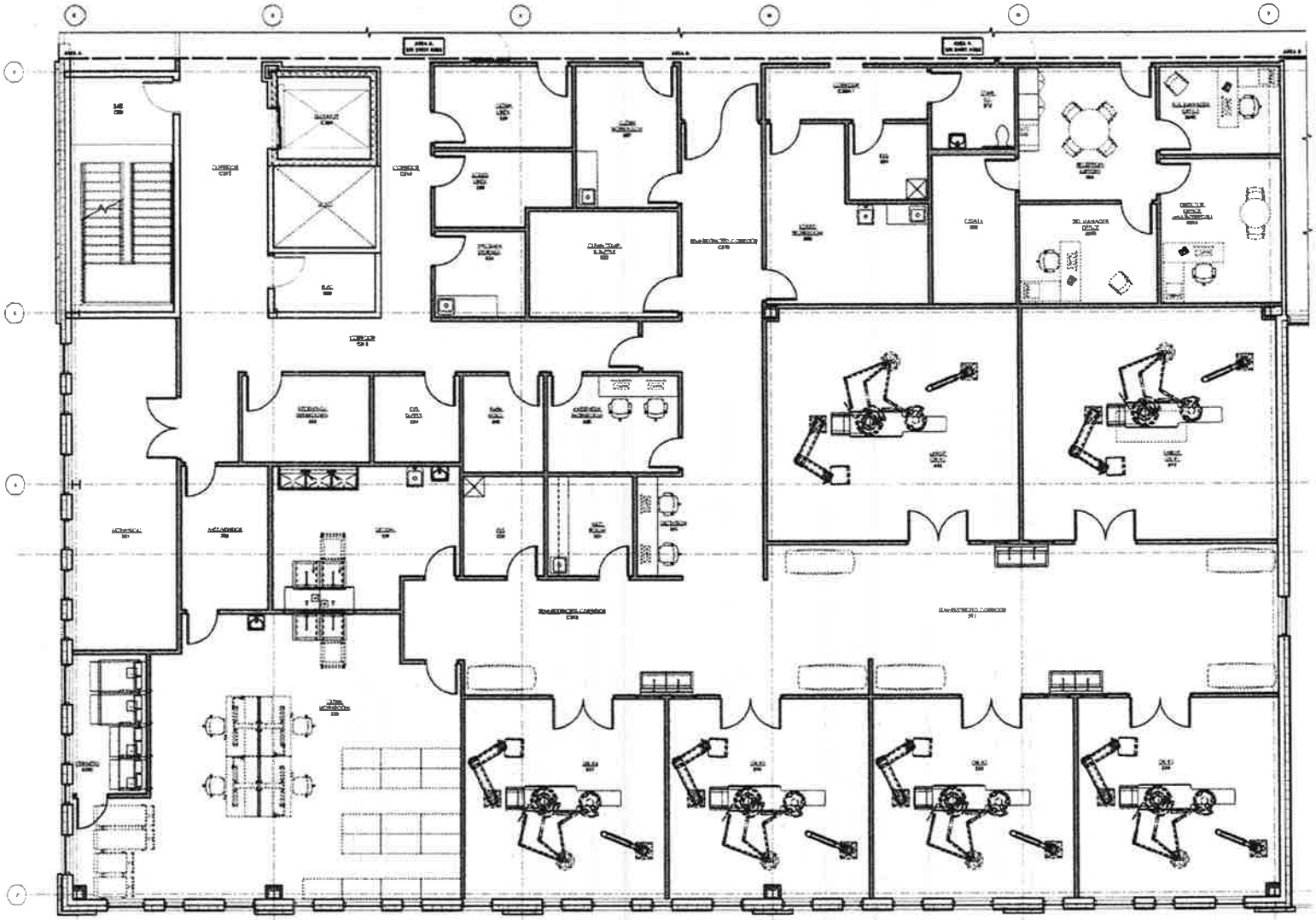
ALL ITEMS ARE CFCI UNLESS NOTED OTHERWISE
COORDINATE WITH ELECTRICAL
COORDINATE MOUNTING HEIGHTS WITH SITE OWNER AND OWNER PRIOR TO INSTALLATION

1. VERTICAL GRAB BAR
2. HORIZONTAL GRAB BAR
3. MIRROR, TILTED
4. CONTACTOR

OFCI ACCESSORIES LEGEND

ALL ITEMS ARE OFCI UNLESS NOTED OTHERWISE
COORDINATE MOUNTING HEIGHTS WITH ARCHITECT, OWNER AND OWNER PRIOR TO INSTALLATION

A. PAPER TOWEL DISPENSER
B. TOWEL DISPENSER
C. TOILET PAPER DISPENSER
D. HAND SANITIZER DISPENSER
E. SHARPS DISPOSAL
F. DIGITAL DISPENSER
G. HEAD BANDS HOLDER
H. MONITOR STAND AND MOUNTING BRACKET (OFCI)



1 PARTIAL 3RD FLOOR - FURNITURE, FIXTURES, & EQUIP PLAN, AREA B
Scale: 1/4" = 1'-0"
PROJECT AREA: AMBULATORY SURGERY CENTER

www.swanson.com
p.h. 315.473.1800
DIRECTOR
170 Cal Washington Street
Suite 270
Syracuse, NY 13202
ARCHITECTS
Syracuse
Rochester
Buffalo
Rochester, NY 14608

Consultants

IPD
ENGINEERING
CNC WEBSTER LANDING
SYRACUSE, NEW YORK 13202
315.472.0100

Key Plan

Project Information

MOHAWK VALLEY HEALTH SYSTEM
AMBULATORY SURGERY & RADIOLOGY FIT-OUT
601 STATE STREET, UTICA, NY 13502

PERMIT SD SUBMISSION
Issue Date: [illegible]

Rev	Date	Description
-		

Project No. [illegible]
Drawn By
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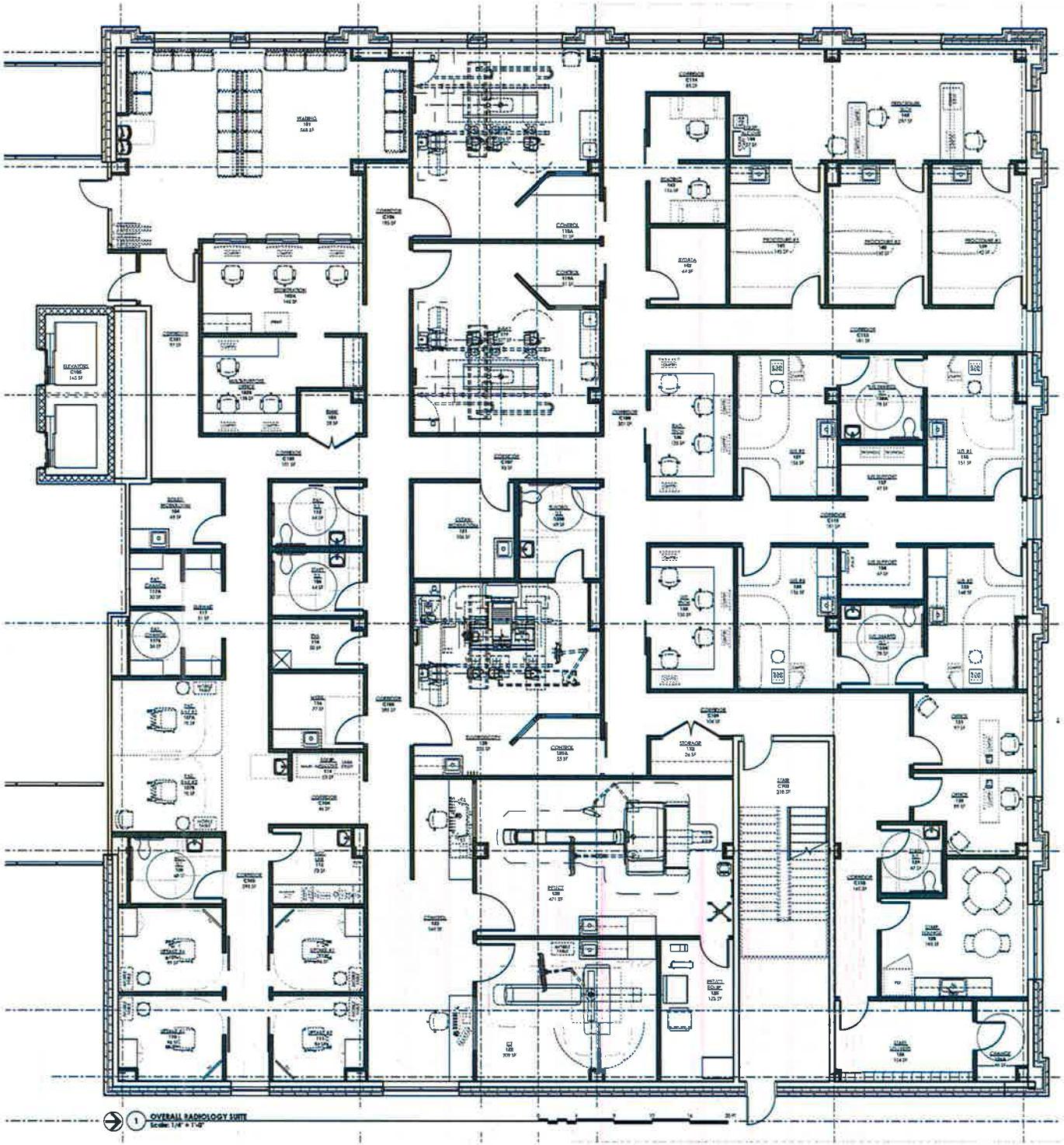
Sheet Title
PARTIAL 3RD FLOOR - FURNITURE, FIXTURES, & EQUIPMENT PLAN, AREA B

Sheet No.
A804



1 OVERALL RADIOLOGY SUITE
Scale: 1/4" = 1'-0"

dwyer
ARCHITECTURE
www.dwyerarch.com
ph: 315.473.1800
SYRACUSE
120 East Washington Street
Suite 820
Syracuse, NY 13202
ROCHESTER
85 Allen Street
Suite 210
Rochester, NY 14608

A wet seal and a blue signature indicates an original document.

Note: Per NYSED Office of the Professions Commissioner Regulations Part 29.1(b) it is a violation of the law for any person, unless acting under the direction of a licensed architect, to alter in any way an item bearing the seal of an architect.

Consultants

Key Plan

Project Information

MOHAWK VALLEY HEALTH SYSTEM

AMBULATORY SURGERY & RADIOLOGY FIT-OUT

601 STATE STREET, UTICA, NY 13502

XXX SET

Issue Date: DRAWING ISSUE DATE

Rev.	Date	Description
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-	-	-
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-	-	-
-	-	-

Project No. 21-029

Drawn By

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Sheet Title

Overall Radiology Suite

Sheet No.

RAD

SECOND FLOOR

Department Legend

- DEVICE
- ECHO CARDIO
- GENERAL EXAM
- HIM
- MATERIALS & FACILITIES
- NUCLEAR MEDICINE
- OFFICES
- PROCEDURE
- RECEPTION
- SCHEDULING
- VASCULAR

Schematic Design

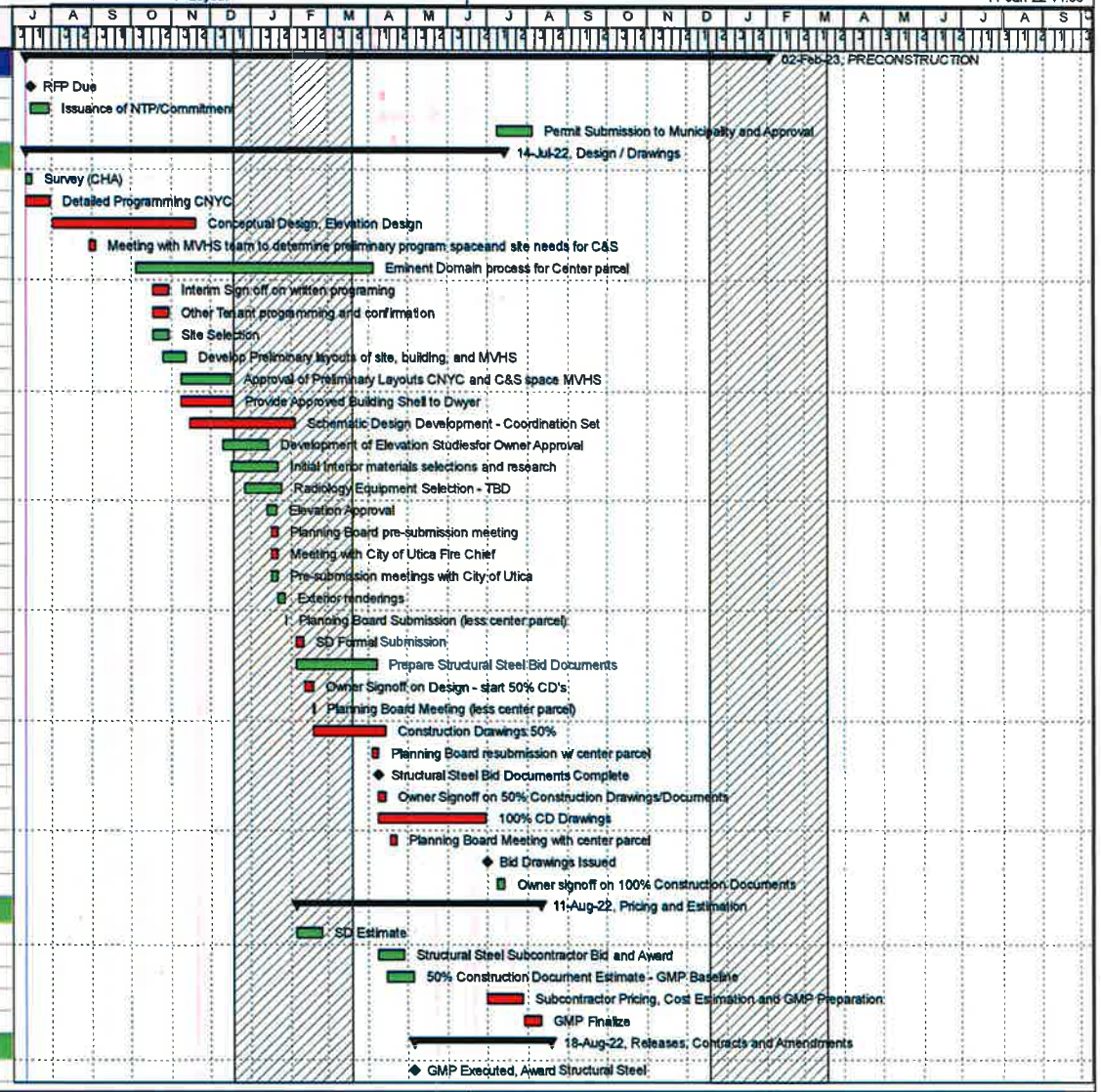
Central New York Cardiology

Columbia St Medical Office Building; Central Utica Building LLC - January 2022

Classic Schedule Layout

11-Jan-22 14:38

Activity ID	Activity Name	Planned Duration	Start	Finish
PRECONSTRUCTION		408	12-Jul-21	02-Feb-23
A1000	RFP Due	0	16-Jul-21*	
A1030	Issuance of NTP/Commitment	10	16-Jul-21	29-Jul-21
A1170	Permit Submission to Municipality and Approval	20	08-Jul-22	04-Aug-22
Design / Drawings		263	12-Jul-21	14-Jul-22
A1690	Survey (CHA)	5	12-Jul-21	16-Jul-21
A1360	Detailed Programming CNYC	15	12-Jul-21*	30-Jul-21
A1080	Conceptual Design, Elevation Design	80	02-Aug-21	19-Nov-21
A1650	Meeting with MVHS team to determine preliminary program spaceand :	5	30-Aug-2'	03-Sep-21
A1090	Eminent Domain process for Center parcel	130	04-Oct-21*	04-Apr-22
A1640	Interim Sign off on written programing	10	18-Oct-21*	29-Oct-21
A1680	Other Tenant programming and confirmation	10	18-Oct-21*	29-Oct-21
A1610	Site Selection	10	18-Oct-21	29-Oct-21
A1630	Develop Preliminary layouts of site, building, and MVHS	15	25-Oct-21	12-Nov-21
A1620	Approval of Preliminary Layouts CNYC and C&S space MVHS	29	08-Nov-21	16-Dec-21
A1670	Provide Approved Building Shell to Dwyer	30	08-Nov-2'	17-Dec-21
A1010	Schematic Design Development - Coordination Set	58	15-Nov-21	03-Feb-22
A1680	Development of Elevation Studiesfor Owner Approval	24	10-Dec-21	13-Jan-22
A1040	Initial Interior materials selections and research	25	17-Dec-21	21-Jan-22
A1750	Radiology Equipment Selection - TBD	20	27-Dec-21	24-Jan-22
A1600	Elevation Approval	6	13-Jan-22	20-Jan-22
A1730	Planning Board pre-submission meeting	5	17-Jan-22*	21-Jan-22
A1740	Meeting with City of Utica Fire Chief	5	17-Jan-22*	21-Jan-22
A1540	Pre-submission meetings with City of Utica	5	17-Jan-22	21-Jan-22
A1370	Exterior renderings	5	21-Jan-22	27-Jan-22
A1520	Planning Board Submission (less center parcel)	1	28-Jan-22	28-Jan-22
A1760	SD Formal Submission	5	04-Feb-22	10-Feb-22
A1020	Prepare Structural Steel Bid Documents	45	04-Feb-22	07-Apr-22
A1550	Owner Signoff on Design - start 50% CD's	5	11-Feb-22	17-Feb-22
A1530	Planning Board Meeting (less center parcel)	1	18-Feb-22	18-Feb-22
A1560	Construction Drawings 50%	40	18-Feb-22	14-Apr-22
A1700	Planning Board resubmission w/ center parcel	5	04-Apr-22*	08-Apr-22
A1580	Structural Steel Bid Documents Complete	0	08-Apr-22	
A1570	Owner Signoff on 50% Construction Drawings/Documents	5	08-Apr-22	14-Apr-22
A1100	100% CD Drawings	60	08-Apr-22	30-Jun-22
A1710	Planning Board Meeting with center parcel	5	18-Apr-22*	22-Apr-22
A1590	Bid Drawings Issued	0	01-Jul-22	
A1720	Owner signoff on 100% Construction Documents	5	08-Jul-22	14-Jul-22
Pricing and Estimation		135	04-Feb-22	11-Aug-22
A1060	SD Estimate	15	04-Feb-22	24-Feb-22
A1050	Structural Steel Subcontractor Bid and Award	15	08-Apr-22	28-Apr-22
A1070	50% Construction Document Estimate - GMP Baseline	15	15-Apr-22	05-May-22
A1110	Subcontractor Pricing, Cost Estimation and GMP Preparation	20	01-Jul-22	28-Jul-22
A1120	GMP Finalize	10	29-Jul-22	11-Aug-22
Releases, Contracts and Amendments		75	05-May-22	18-Aug-22
A1140	GMP Executed, Award Structural Steel	0		05-May-22



Remaining Level of Effort | Actual Work | Critical Remaining Work
Actual Level of Effort | Remaining Work | Milestone

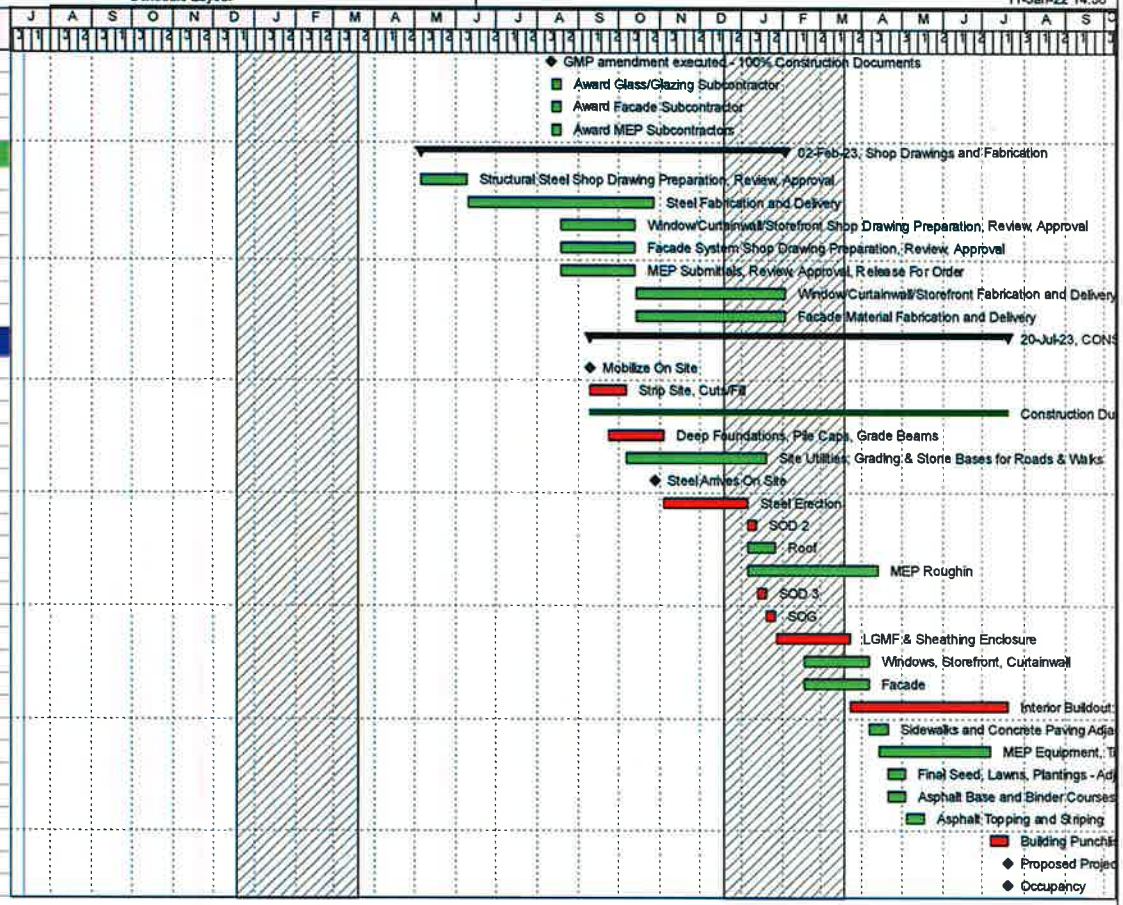
HUEBER BREUER
A LEGACY OF CONSTRUCTION SOLUTIONS

Columbia St Medical Office Building; Central Utica Building LLC - January 2022

Classic Schedule Layout

11-Jan-22 14:38

Activity ID	Activity Name	Planned Duration	Start	Finish
A1130	GMP amendment executed - 100% Construction Documents	0		11-Aug-22
A1440	Award Glass/Glazing Subcontractor	5	12-Aug-22	18-Aug-22
A1450	Award Facade Subcontractor	5	12-Aug-22	18-Aug-22
A1410	Award MEP Subcontractors	5	12-Aug-22	18-Aug-22
Shop Drawings and Fabrication		195	06-May-22	02-Feb-23
A1430	Structural Steel Shop Drawing Preparation, Review, Approval	25	06-May-22	09-Jun-22
A1150	Steel Fabrication and Delivery	100	10-Jun-22	27-Oct-22
A1460	Window/Curtainwall/Storefront Shop Drawing Preparation, Review, App	40	19-Aug-22	13-Oct-22
A1490	Facade System Shop Drawing Preparation, Review, Approval	40	19-Aug-22	13-Oct-22
A1420	MEP Submittals, Review, Approval, Release For Order	40	19-Aug-22	13-Oct-22
A1470	Window/Curtainwall/Storefront Fabrication and Delivery	80	14-Oct-22	02-Feb-23
A1480	Facade Material Fabrication and Delivery	80	14-Oct-22	02-Feb-23
CONSTRUCTION		225	09-Sep-22	20-Jul-23
A1160	Mobilize On Site	0	09-Sep-22	
A1180	Strip Site, Cuts/Fill	20	09-Sep-22	06-Oct-22
A1500	Construction Duration	225	09-Sep-22	20-Jul-23
A1200	Deep Foundations, Pile Caps, Grade Beams	30	23-Sep-22	03-Nov-22
A1190	Site Utilities; Grading & Stone Bases for Roads & Walks	75	07-Oct-22	19-Jan-23
A1210	Steel Arrives On Site	0	28-Oct-22	
A1220	Steel Erection	45	04-Nov-22	05-Jan-23
A1240	SOD 2	5	06-Jan-23	12-Jan-23
A1260	Roof	15	06-Jan-23	26-Jan-23
A1340	MEP Roughin	70	06-Jan-23	13-Apr-23
A1250	SOD 3	5	13-Jan-23	19-Jan-23
A1230	SOG	5	20-Jan-23	26-Jan-23
A1270	LGMF & Sheathing Enclosure	40	27-Jan-23	23-Mar-23
A1310	Windows, Storefront, Curtainwall	35	17-Feb-23	06-Apr-23
A1280	Facade	35	17-Feb-23	06-Apr-23
A1290	Interior Buildout: Elevator Core, 25K sf	85	24-Mar-23	20-Jul-23
A1380	Sidewalks and Concrete Paving Adjacent to Building	10	07-Apr-23	20-Apr-23
A1350	MEP Equipment, Trim, Devices	60	14-Apr-23	06-Jul-23
A1300	Final Seed, Lawns, Plantings - Adjacent to Building	10	21-Apr-23*	04-May-23
A1400	Asphalt Base and Binder Courses	10	21-Apr-23	04-May-23
A1320	Asphalt Topping and Striping	10	05-May-23	18-May-23
A1330	Building Punchlist, Startup, Turnover	10	07-Jul-23	20-Jul-23
A1390	Proposed Project Substantial Completion	0		20-Jul-23
A1510	Occupancy	0		20-Jul-23



Remaining Level of Effort | Actual Work | Critical Remaining Work
Actual Level of Effort | Remaining Work | Milestone

HUEBER BREUER

AXIOM

COMMERCIAL REAL ESTATE FINANCE & ADVISORY

Charles M. Cronin
President & CEO
(518) 472-4000 ext. 204 Voice
cmc@axiom-capital.com

February 28,2022

Shawna M. Papale, Executive Director
Oneida County Industrial Development Agency
584 Phoenix Drive
Rome, New York 13441

Re: Central Utica Building, LLC Project Financing Summary

Dear Ms. Papale:

Axiom was engaged by Central Utica Building, LLC (CUB) almost one year ago to assist in structuring both the debt and equity to optimally finance the construction of the 93,000-sf. medical office building (MOB) on Columbia Street in Utica.

In our 29 years in business, we have structured and arranged more than 1.3 million sq. feet of medical office buildings. We have structured financing for both fee ownership and leasehold financings, as is contemplated for the CUB project.

During this past year we have been closely involved in the planning, budgeting, valuation, and other aspects of the project. Our efforts have included contacting numerous banks and insurance companies with details of the project. There is significant interest in providing competitive loan structures by multiple banks and insurance companies for both the construction and permanent financing of this project. The CUB project is very financeable. Once we have the site (location) and other aspects of the construction finalized we will be able to generate a financing commitment very quickly.

If you have any questions, please let me know, you can visit our website and see multiple examples of MOB's we have financed.

Sincerely,

Charles M. Cronin

Charles M. Cronin
President
Axiom Realty Advisors

EXHIBIT "9"

MVHS

Statement for OCIDA Public Hearing on Wednesday, February 23, 2022:

"Acquiring the 411 Columbia Street property is critical to moving forward with construction of the Central Utica Building (CUB) group's medical office building/ambulatory surgery center (MOB/ASC).

MVHS is making a $611 million investment in The Wynn Hospital Clinical Campus – a comprehensive medical campus designed for accessibility for providers and patients, both in and outpatient services as well as the ability to develop a robust teaching program.

The development of a MOB/ASC adjacent to The Wynn Hospital is crucial to the overall project because the services housed in this building complement the work being done in the hospital and work collaboratively to support each other. The MOB/ASC is planned to house multiple physician practices that will support MVHS by providing ambulatory surgery, outpatient radiology and a laboratory services.

The overall plan for The Wynn Hospital was to construct the hospital as in inpatient facility and locate outpatient surgeries, services, and procedures in an MOB/ASC next to the hospital. Placing these services in the MOB/ASC not only allows for easy patient access, but it creates a significant cost saving for the project as it is much costlier to place these services within the hospital itself.

We appreciate Oneida County's continued support on this project and the CUB for developing this important addition to The Wynn Hospital Clinical Campus."

EXHIBIT "10"

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 consitutes 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 Faciltiy:

(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 SEQR 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 finanancing 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

EXHIBIT "11"

Bruce A Smith
Direct: 315.477.6291
Direct Fax: 315.425.3691
Email: bsmith@ccblaw.com

March 2, 2022

Paul J. Goldman, Esq.
Goldman Attorneys PLLC
255 Washington Avenue Extension, Suite 108
Albany, New York 12205

Re: Central Utica Building, LLC MOB Project

Dear Paul:

This letter will confirm that during business hours the MOB parking lot will be available to members of the public who are patients or family members accessing the ambulatory surgery center or physician offices located in the MOB. During the evening and weekends the MOB parking lot will be available to the general public.

Very truly yours,

Bruce A. Smith

Bruce A. Smith

EXHIBIT "12"

GOLDMAN ATTORNEYS PLLC
Attorney and Counselors at Law

255 WASHINGTON AVENUE EXTENSION, SUITE 108
ALBANY, NEW YORK 12205

TELEPHONE: (518) 431-0941
FAX: (518) 694-4821

Paul J. Goldman
pgoldman@goldmanpllc.com

March 16, 2022

CERTIFIED MAIL RETURN RECEIPT REQUESTED

JP O'Brien Plumbing & Heating Supply, Inc.
411 Columbia Street
Utica, New York 13502

Bowers Development, LLC
6308 Fly Road
East Syracuse, New York 13057

Michael A. Fogel, Esq.
Patrick Donnelly, Esq.
Brown Duke & Fogel, P.C.
120 Madison Street, Suite 1620
Syracuse, New York 13202

Re: Eminent Domain Procedure Law §203 Public Hearing with respect to 411 Columbia Street, City of Utica, Oneida County, New York a/k/a Section 318.41, Block 2, Lot 38 (the "Property")

Dear Sir or Madam:

Please be advised that this firm represents the Oneida County Industrial Development Agency ("OCIDA") in connection with its evaluation of the Need and Location for a Public Project consisting of a parking lot to be constructed on the Property pursuant to Article 2 of the Eminent Domain Procedure Law ("EDPL"). Per your request, the full record of the Public Hearing is available for inspection and copying at the office of the OCIDA located at c/o Mohawk Valley Edge, 584 Phoenix Drive, Rome, New York 13441. In addition, this record is also available for inspection and copying at the Oneida County Clerk's office located at 800 Park Avenue, Utica, New York 13501. If you wish to inspect the same at the offices of EDGE, please contact Ms. Jennifer Waters or Ms. Laura Cohen at (315) 338-0393.

Further notice is hereby given that you and the public may comment on all or any portion of the attached documents by providing written comment to the OCIDA at c/o Mohawk Valley Edge, 584 Phoenix Drive, Rome, New York 13441 which comment must be submitted to the OCIDA on or before March 30, 2022 at 5.00 PM. Comments will be accepted by the OCIDA by hand delivery and/or email to jwaters@mvedge.org. Finally, it is respectfully requested that comments not be repetitive with any comments previously made.

Very truly yours,

GOLDMAN ATTORNEYS PLLC

Paul J. Goldman

SENDER: COMPLETE THIS SECTION

GOLDMAN ATTORNEYS PLLC
255 WASHINGTON AVENUE EXT.
SUITE 108
ALBANY NY 12205

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent ☐ Addressee
X

B. Received by (Printed Name) RECEIVED 3-19-22
C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

1. Article Addressed to:

JP O'BRIEN PLUMBING & HEATING SUPPLY, INC.
422 COLUMBIA STREET
UTICA NY 13502

9290 9000 0000 0000 0029 71

2. Article Number (Transfer from service label)
9214 7000 0000 0000 0029 77

3. Service Type ☒ Certified Mail® ☐ Certified Mail® Restricted Delivery

PS Form 3811 Facsimile, July 2015 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

GOLDMAN ATTORNEYS PLLC
255 WASHINGTON AVENUE EXT.
SUITE 108
ALBANY NY 12205

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent ☐ Addressee
X MI PS C9

B. Received by (Printed Name)
C. Date of Delivery 3/18/22

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

1. Article Addressed to:

DOWERS DEVELOPMENT, LLC
6308 FLY ROAD
EAST SYRACUSE NY 13057

9290 9000 0000 0000 0029 88

2. Article Number (Transfer from service label)
9214 7000 0000 0000 0029 84

3. Service Type ☒ Certified Mail® ☐ Certified Mail® Restricted Delivery

PS Form 3811 Facsimile, July 2015 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

GOLDMAN ATTORNEYS PLLC
255 WASHINGTON AVENUE EXT.
SUITE 108
ALBANY NY 12205

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent ☐ Addressee
X

B. Received by (Printed Name)
C. Date of Delivery 3/18

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

1. Article Addressed to:

MICHAEL A. FOGEL, ESQ.
PATRICK DONNELLY, ESQ.
BROWN DUKE & FOGEL, P.C.
120 MADISON ST, SUITE 1620
SYRACUSE NY 13202

9290 9000 0000 0000 0029 95

2. Article Number (Transfer from service label)
9214 7000 0000 0000 0029 93

3. Service Type ☒ Certified Mail® ☐ Certified Mail® Restricted Delivery

PS Form 3811 Facsimile, July 2015 Domestic Return Receipt

UNITED STATES POSTAL SERVICE
SYRACUSE NY 130
18 MAR 2022PM 3 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9290 9000 0000 0000 0029 71

GOLDMAN ATTORNEYS PLLC
255 WASHINGTON AVENUE EXT.
SUITE 108
ALBANY NY 12205

RE: 7224-19772

RECEIVED
Goldman Attorneys PLLC
MAR 21 2022
Delivery Method:
Postage Date:
By:

UNITED STATES POSTAL SERVICE

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Postage & Fees Paid
USPS
Permit No. G-10

9290 9000 0000 0000 0029 88

GOLDMAN ATTORNEYS PLLC
255 WASHINGTON AVENUE EXT.
SUITE 108
ALBANY NY 12205

RE: 7224-19772

RECEIVED
Goldman Attorneys PLLC
MAR 21 2022
Delivery Method:
Postage Date:
By:

UNITED STATES POSTAL SERVICE
SYRACUSE NY 130
18 MAR 2022PM 4 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No.

9290 9000 0000 0000 0029 95

GOLDMAN ATTORNEYS PLLC
255 WASHINGTON AVENUE EXT.
SUITE 108
ALBANY NY 12205

RE: 7224-19772

RECEIVED
Goldman Attorneys PLLC
MAR 21 2022
Delivery Method:
Postage Date:
By:

EXHIBIT "13"

LOCALiQ

Observer-Dispatch
Times Telegram | New Jersey Herald
Times Herald-Record

PO Box 631202 Cincinnati, OH 45263-1202

PROOF OF PUBLICATION

Paul Goldman
Goldman Attorneys PLLC
255 Washington Avenue EXT # 108
Albany NY 12205-5533

STATE OF NEW YORK, COUNTY OF ONEIDA

The Observer Dispatch, a newspaper published in the City of Utica, New York.
The text of the notice as published in said newspaper is as set forth below, or in the annexed exhibit, was published in the issue dated:

03/22/2022, 03/23/2022, 03/24/2022, 03/25/2022, 03/27/2022

and that the fees charged are legal.
Sworn to and subscribed before on 03/27/2022

D. Roberts

Legal Clerk

Kathleen Allen

Notary, State of WI, County of Brown

1-7-25

My commision expires

Publication Cost:	$100.95	
Order No:	7063820	# of Copies:
Customer No:	733973	1
PO #:		

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

KATHLEEN ALLEN
Notary Public
State of Wisconsin

NOTICE OF FILING OF RECORD OF PUBLIC HEARING

Notice is hereby given that on March 16, 2022, the Oneida County Industrial Development Agency ("OCIDA") filed a copy of the Record of the Public Hearing (the "Record") under Eminent Domain Procedure Law §203 with the Oneida County Clerk's Office as Instrument No. F2022-000025. The Record is available to the public for examination without cost during the normal business hours at both: (a) the OCIDA's office, 584 Phoenix Drive, Rome, NY 13441; and (b) the Oneida County Clerk's Office, 800 Park Avenue, Utica, NY 13501.

Further notice is hereby given that the public may provide additional comment on the Record by providing written comment to the OCIDA at c/o Mohawk Valley Edge, 584 Phoenix Drive, Rome, NY 13441 or via email to jwaters@mvedge.org. which written comment must be submitted to the OCIDA on or before March 30, 2022 at 5.00 PM.

Oneida County Industrial Development Agency
Attn: Chairman
584 Phoenix Drive
Rome, New York 13441
By: David C. Grow /s/
Chairman
Dated: March 17, 2022

USA TODAY NETWORK

Order Confirmation

Not an Invoice

Account Number:	733973
Customer Name:	Goldman Attorneys PLLC
Customer Address:	Goldman Attorneys PLLC 255 Washington Avenue EXT # 108 Albany NY 12205-5533
Contact Name:	Paul Goldman
Contact Phone:	
Contact Email:	
PO Number:	

Date:	03/17/2022
Order Number:	7063820
Prepayment Amount:	$ 0.00

Column Count:	1.0000
Line Count:	43.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
UOD Observer-Dispatch	5	03/22/2022 - 03/27/2022	Public Notices
UOD uticaod.com	5	03/22/2022 - 03/27/2022	Public Notices

Total Order Confirmation	**$100.95**

Ad Preview

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Oneida County Industrial Development Agency
Attn: Chairman
584 Phoenix Drive
Rome, New York 13441
By: David C. Grow /s/
Chairman
Dated: March 17, 2022