| 1 | |
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| 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* |
| L 0 | HELD: WEDNESDAY, FEBRUARY 23, 2022 |
| L1 | 9 a.m 9:26 a.m. |
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This ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY
PUBLIC HEARING, held via ZOOM VIDEOCONFERENCING
was reported via steno writer by DEBORAH M.

MCBYRNE, Certified Court Reporter and Certified
Notary Public within and for the State of New
York

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1 | APPEARANCES: some **ALL PARTIES APPEARED REMOTELY* ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY 584 PHOENIX DRIVE ROME, NY 13441 MICHAEL FITZGERALD, VICE CHAIR - W person SHAWNA PAPALE, SECRETARY/EXECUTIVE DIRECTOR JENNIFER WATERS, ASSISTANT SECRETARY - in person

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REMOTE OATH BY REPORTER ACKNOWLEDGEMENT

The parties participating in this hearing acknowledge that the reporter is not physically present in the deposition room and that he/she will be reporting this deposition remotely.

They further acknowledge that, in lieu of an oath administered in person, the reporter will administer the oath remotely, pursuant to Executive Order Number 202.7, issued by New York State Governor Andrew M. Cuomo on March 19, 2020. All parties consent to this arrangement and waive any objections to this manner of reporting.

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1 OCIDA PUBLIC HEARING Held February 23, 2022 2 MS. WATERS: Good morning, 3 everyone. All right. It is 9 o'clock. We 4 are going to get started. 5 All right. So this is the public 6 hearing for the Central Utica Building, LLC 7 Does anyone need me to read the Notice of Public Hearing aloud? 8 Patrick UNIDENTIFIED SPEAKER: Yes. 9 MS. WATERS: 10 Okav. 11 Notice is hereby given that a 12 public hearing pursuant to Article 18A of the New York State General Municipal Law 13 14 will be held by the Oneida --15 Oh, hold on. The wrong public 16 hearing notice. 17 Please take notice that a public 18 hearing opened to all persons will be held on February 23, 2022, at the Oneida County 19 20 Legislature Chambers, Oneida County Office 21 Building, 10th Floor, 800 Park Ave., City

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of Utica, Oneida County, New York,

commencing at 9 o'clock by the Oneida

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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 318.41-2-38, in the City of Utica, Number: 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

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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

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| 1 | OCIDA PUBLIC HEARING Held February 23, 2022 |
|----|---|
| 2 | pursuant to the EDPL. |
| 3 | The public purposes served by the |
| 4 | Project and the Additional Project Land |
| 5 | include: |
| 6 | 1: Improving healthcare for the |
| 7 | community; |
| 8 | 2: Creating new and improved job |
| 9 | opportunities; |
| 10 | 3: Reducing unemployment; |
| 11 | 4: Eliminate blight in the |
| 12 | immediate area of the Project; |
| 13 | 4: [sic] Promote urban renewal |
| 14 | and redevelopment and; |
| 15 | 6: On an overall basis, result |
| 16 | in the betterment of community prosperity |
| 17 | within Oneida County. |
| 18 | The acquisition of the Additional |
| 19 | Project Land has been represented to be |
| 20 | essential to the development of the Project |
| 21 | and the six-suite ambulatory surgery center |
| 22 | therein that are proposed to be constructed |
| 23 | adjacent to the Wynn Hospital, because the |

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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

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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.

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

Great.

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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

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domain, and the owner, O'Brien, has also.

Bowers is one of the largest and most active developers in Utica and has invested a significant amount of time, effort and money into developing and restoring buildings in Utica.

Bowers has a contract to purchase the property and intends to construct a brand new state-of-the art medical office building on the property that will have more square footage than the MOB proposed by Central Utica Building, who I'll refer to as CUB.

Under the circumstances, it will be outrageous and unlawful for OCIDA to take the property by eminent domain.

First, OCIDA cannot take the property by eminent domain because the CUB project is outside the statutory authority of OCIDA.

Industrial development agencies are creatures of statute and are limited to powers provided by statute. Article 18A of

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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

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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

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avoid condemnation.

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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

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1 OCIDA PUBLIC HEARING Held February 23, 2022 2 purposes of the hospital years ago. Therefore, for all these reasons, 3 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 I'm one of the members of physician. 13 Central Utica Building, LLC, the developer 14 of the project. 15 I am a cardiologist at Central New York Cardiology, which will be one of 16 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

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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

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six-operating-room, Medicare-certified,
multi-specialty ambulatory surgical center.

Second, office space for key
hospital-based or hospital-centered medical
specialties that require proximity to the
Wynn Hospital to provide their services.
This includes cardiology, cardiac surgery,
advanced endoscopy, a brain surgery stroke
center and other medical specialties.

Third, supporting services in an imaging center and a laboratory center, which include radiology, CT, fluoroscopy, PET scan, general radiology and general ultrasound.

Overall, this project will significantly enhance, expand and make more accessible delivery of healthcare services to the entire community.

The location of the medical office building adjacent to the Wynn Hospital will enable the development of a seamless and integrated healthcare delivery

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system among the Wynn Hospital providers located in the medical office and thereby improving the quality and accessibility of healthcare services in the community.

These types of services are essential to a modern hospital.

In the old days, everything a hospital did provided revenue and was fiscally positively impactful. Nowadays, hospitals have mandates to provide a number of services that are challenging and they require services such as this, effectively to complete the project and maintain physical health of the hospital going forward so that it can provide quality modern healthcare for generations to come in this community.

Now, the medical office building, which was always intended to be privately owned will add to the tax base of the City of Utica.

In October 2019, the principles

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of Central Utica Builders who, like me, are physicians and cardiologists, other specialties as well, neurosurgery, urology, began having discussions about developing a medical office building within the Wynn Hospital campus. Both MVHS and our physicians have been committed to a collaborative approach to improving the quality and accessibility of healthcare in our area. The hospital has over a century track record of providing healthcare to this community, and the cardiology group has over 40 years track record of providing 24/7 care and attention to our community.

Based on these discussions, if we agreed to develop and finance the building, this building, as part of the Wynn Hospital campus, Central Utica Builders will provide all the required equity, and its individual owners will provide all required credit support for the construction loan to construct this building. All of the

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commitments for this equity are already in place and Central Utica Building is evaluating various loan proposals as we

5 speak.

Because the building will be privately owned, it will add to the tax base for the City of Utica. We have committed tenants for over 90 percent of the building space already. This includes the ambulatory surgical center, medical specialty offices and the imaging lab. As a result, this project is immediately financeable as confirmed by the proposals that have been provided.

The centerpiece of the medical office building is the six-OR, Article 28, Medicare-certified ambulatory surgery center. The surgery center will be owned for a for-profit proprietary entity in conjunction with the hospital. And because the Wynn Hospital will essentially be an inpatient facility, the outpatient surgery

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center will be required to handle a current volume of surgery being performed at St. Elizabeth and St. Luke's Hospital to move to this ambulatory surgery center. Many types of surgeries are currently performed in an inpatient setting, but it's anticipated that they will be transformed over to outpatient surgery in the years to come to an even greater extent. Advances such as laparoscopic surgery, robotic surgery and other minimally-evasive things are ideally suited for patients to go home the same day and to have their whole experience in an ambulatory surgical center. So this new six-OR ambulatory surgical center is absolutely a vital addition to the area's healthcare community, as well as the hospital's complete package of services offered.

So in addition to creating over 100 construction jobs, the medical office building is expected to create a number of

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new jobs in the healthcare field from nurses, technicians and also physicians. It's our intention to attract and recruit medical specialists, to bring new services and provide new entities to this community so that people will have less need to travel to Syracuse, Albany or New York City for their medical care. We've already seen this over the past five years. attracted a number of new physicians in the areas of structural heart. We've added electrophysiology. We've added new cardiac surgeons. This is a trend that is in place and absolutely must go forward in the years to come.

We cannot build the medical office building unless we have sufficient parking adjacent to the building. Patients who attend ambulatory surgical centers are patients who see neurosurgeons, patients who see cardiologists, are often infirm. They may be post-op from a surgical

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procedure. They may be elderly. They may have already suffered from a cardiac condition or a stroke and they cannot be expected to walk a number of blocks to reach their — from their transportation to their medical care center. It's very important that these patients have adjacent parking and that the process of them attending their medical visits is facilitated for them.

The 411 Columbia Street property which we are requesting OCIDA condemn is located contiguous to the proposed medical office building and this space is needed to support our parking requirements.

Now, unless we can secure ownership of this property for parking, we do not feel that it is feasible to proceed with building the medical office building at 601 State Street and, therefore, the community will not benefit by having access to this prized ambulatory surgical center,

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| 2 | imaging center and specialized medical |
| 3 | services within the campus of the Wynn |
| 4 | Hospital. Thank you. |
| 5 | MS. WATERS: Thank you. |
| 6 | All right. Up next we have |
| 7 | Michael Licata. |
| 8 | And I would like to note that it |
| 9 | is County policy that all visitors do need |
| 10 | to be masked. So please, if you are a |
| 11 | visitor, please remember to put your mask |
| 12 | on. Thank you. |
| 13 | Mr. Licata? |
| 14 | MR. LICATA: Can I remove it to |
| 15 | speak? |
| 16 | MS. WATERS: Yes. |
| 17 | MR. LICATA: Thank you very much. |
| 18 | I am Mike Licata, Vice President |
| 19 | of Bowers Development. |
| 20 | And in listening to the comments, |
| 21 | we would start off by saying we agree. We |
| 22 | agree that everything that's been said so |
| 23 | far pretty much everything is accurate. |

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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

6 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,

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OCIDA PUBLIC HEARING 1 Held February 23, 2022 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. am Bob Schofield, Executive Vice President 12 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 Thank you. well. 21 Just a couple clarification

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points and then we do have a written

documents that we'll submit.

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Wynn Hospital.

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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

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

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have nearly completed schematic design of those spaces inside the medical office building. We hope to have that completed shortly.

The timing of this is essential, as I indicated previously, that the MVHS is going to be building an inpatient facility. Those entities inside the medical office building, specifically the medical office of the ambulatory surgery center are essential to be up and operational prior to our opening.

If not, we may not be able to open the Wynn Hospital on time, which will be a significant financial impact not only to the MVHS, but to the community as a whole. Thank you.

MS. WATERS: Thank you.

The last one I have is Peter.

DR. HOTVETT: Hello. My name is

Dr. Pete Hotvett. I am also a member of

the Central Utica Building, LLC and a

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26-year member of Central New York Cardiology.

I'd like to highlight and expand on a few points that Dr. MacIsaac previously made.

First, I want to state, it appears there's no dispute of any of the parties that there's need and demand for a medical office building adjacent to the Wynn Hospital footprint, which is in the public interest for the residents in the City of Utica and the surrounding areas. The services to be made in this project will be transformative to the delivery of healthcare in our community.

This will include a six-OR multi-specialty ambulatory surgery center, which will handle outpatient surgical cases previously performed in the hospital of the St. Elizabeth's and St. Luke's campuses. It will provide significant cost savings for patients and payers.

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Secondly, the office space for key hospital-based or hospital-centric medical personnel, including cardiology, cardiac surgery, neurosurgery and others, will be close to the Wynn Hospital and important for these patients which are needing collaborative care.

Third, the project will attract medical subspecialists to the area that would not otherwise locate here. Like I said, I came here 26 years ago because of the promise of opening an open-heart center to do cardiac surgery, and which was not then an opportunity. In the same vein, we are looking to attract new physicians for structural heart and other services which we don't currently offer in this community and people have to leave town for.

We currently have committed tenants for just over 90 percent of the building. We have the support of MVHS.

The project is real and ready for

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commencement and, as the hospital has indicated, the timing of the project is essential so we can coordinate, because as we've pointed out, the hospital itself is based on inpatient services. This is the collaborative outpatient piece of the puzzle.

The 411 Columbia Street property which we are requesting OCIDA to condemn is located contiguous to the building and within the footprint of the plan development. It is needed for the parking requirements for the services of patients.

Thank you very much.

MS. WATERS: Thank you.

Is there anyone else who would like to make any public comment?

(No verbal/audible response.)

MS. WATERS: Great. Hearing
none, I will note that I do have a written
statement from Patrick Donnelly that will
be entered into the record and -- as well

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OCIDA PUBLIC HEARING 1 | Held February 23, 2022 as -- and then I'll have Bob's written 2 statement as well that will be entered into 3 4 the record. 5 And I'll note that if any written 6 comments would like to be made, they can be made and submitted to our office via e-mail 7 or paper copy, as well, by March 2nd. 8 9 This public hearing will now conclude. Thank you, everybody. 10 11 (Whereupon, the HEARING concluded at 12 9:26 a.m.) 13 14 15 16 17 18 19 20 21 22 23

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REPORTER'S CERTIFICATE I, DEBORAH McBYRNE, a Court Reporter and Notary Public in and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability. IN WITNESS WHEREOF, I have hereunto set my hand. DEBORAH MCBYRNE

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ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY Held REMOTELY February 23, 2022

Public Hearing

| | | ALTOGO SER VICE CANDERS | | | |
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| | 4 | Albany [1] 24/8 | cardiologist [1] | confirmed [1] 22/14 | 8/21 28/23 |
| DR. HOTVETT: [1] | | aloud [1] 6/8 alternatives [2] | cardiologists [2] | conjunction [1] | doing [1] 15/19 domain [10] 7/4 |
| 30/21 | 411 [6] 1/5 7/6 | 16/12 16/13 | 21/3 24/22 | 22/21 | 10/7 13/1 13/17 |
| DR. MacISAAC: [1] 17/10 | 10/11 12/23 25/12 33/9 | ambulatory [12] | cardiology [5] | connects [1] | 13/19 14/17 15/12 |
| MR. DONNELLY: | | 7/11 9/21 19/3 | 17/16 19/8 21/13 | 27/12 | 16/8 16/21 17/6 |
| [1] 12/17 | 5 | 22/11 22/18 23/5 | 31/3 32/4 | consent [1] 4/11 | done [2] 16/23 |
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