

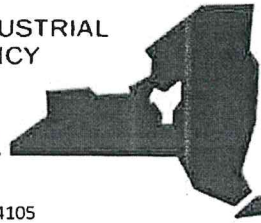
Anthony J. Picente Jr.  
County Executive

Shawna M. Papale  
Secretary/Executive Director

Jennifer Waters  
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

**OCIDA**



584 Phoenix Drive,  
Rome, New York 13441-4105  
(315) 338-0393, fax (315) 338-5694  
[info@mvedge.org](mailto:info@mvedge.org) [www.mvedge.org](http://www.mvedge.org)

David C. Grow  
Chairman

Michael Fitzgerald  
Vice Chairperson

Mary Faith Messenger  
Treasurer

Ferris Betrus, Jr.  
Kirk Hinman  
Eugene Quadraro  
Stephen Zogby

May 24, 2021

Paul Totaro, Vice President and CFO  
ECR International, Inc.  
2201 Dwyer Avenue  
Utica, New York 13501

RE: *Oneida County Industrial Development Agency  
2020 Lease-Leaseback Amendment (ECR International, Inc. Facility)*

Dear Mr. Totaro:

Pursuant to a resolution duly adopted on April 24, 2020, Oneida County Industrial Development Agency (the "Agency") appointed ECR International, Inc., and/or an entity formed or to be formed on its behalf (collectively, the "Sublessee") its agent in connection with a transaction in which the Agency will assist in renovation of a 202,000± square foot building (the "Improvements") situated on a 25± acre parcel of land located at 2201 Dwyer Avenue, City of Utica (the "Land") and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of manufacturing heating products for distribution to the residential and light commercial markets (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the renovation and equipping of the Improvements is referred to as the "Project"). The Facility will be initially operated and/or managed by the Sublessee.

This appointment includes authority to purchase on behalf of the Agency all materials to be incorporated into and made an integral part of the Facility, and the following activities as they relate to any renovation, equipping and completion of any buildings, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of such buildings: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with renovation and equipping (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with renovation and equipping and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs), installed or placed in, upon or under such building, including all repairs and replacements of such property.

The Agency will appoint the Sublessee as its only direct agent for the Project. The agency appointment includes the power of the Sublessee to delegate such agency appointment, in whole or in part, to agents, subagents, contractors, subcontractors, materialmen, suppliers and vendors of the Sublessee and to such other parties as the Sublessee chooses so long as they are engaged, directly or indirectly, in the activities hereinbefore described. Please advise the Executive Director of the Agency if you wish to appoint a contractor or other subagent, and the Agency will issue an ST-60 to that party.

In exercising this agency appointment, you and each of your properly appointed agents and subagents must claim the sales tax exemption for all purchases by giving your vendors New York State Form ST-123. The supplier or vendor should identify the Facility on each bill or invoice as the "**ECR International, Inc. Facility**" and indicate thereon that the Sublessee, its agents, subagents, contractors and subcontractors acted as agent for the Agency in making the purchase.

You and each of your agents, subagents, contractors and/or subcontractors claiming a sales tax exemption in connection with the Facility must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each completed Form ST-60 must be delivered to the Agency within five (5) days of the appointment of each of your agents, subagents, contractors or subcontractors. Any agent, subagent, contractor or subcontractors of the Sublessee which delivers completed Form ST-60 to the Agency will be deemed to be the agent, subagent, contractor or subcontractor of the Agency for purposes of renovating and equipping the Facility, and shall only then be authorized to use Form ST-123 as described above. Failure to comply with these requirements may result in loss of sales tax exemptions for the Facility.

It is important to note that contractors and subcontractors who have not been appointed subagent cannot use the sales tax exemption for equipment rental, tools, supplies and other items that do not become part of the finished project. Contractors and subcontractors must be appointed as agent or sub-agent of the Agency to use the Agency sales tax exemption for these purchases. Contractors and subcontractors who have not been appointed a subagent and are making purchases that would otherwise be exempt outside of the Agency's interest in the Facility must claim the sales tax exemption for renovation materials by giving their vendors a completed "Contractor Exempt Purchase Certificate" (Form ST-120.1) checking box (a).

The aforesaid appointment of the Sublessee as agent of the Agency to renovate and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, or (b) April 24, 2022, provided, however, such appointment may be extended at the discretion of the Agency, upon the written request of the Sublessee if such activities and improvements are not completed by such time, and further provided that the Agency shall not unreasonably withhold its consent to the extension of such appointment.

Based upon representations made by the Sublessee, the value of the sales tax to be abated relating to the renovation and equipping of the Facility is estimated at \$223,388; the value of sales tax exemptions currently authorized by the Agency is not to exceed \$245,727. The Agency is required by law to recapture any New York State sales tax

exemptions claimed by the Sublessee (i) that exceed \$100,000 for purchases made between April 24, 2020 and May 12, 2020 or (ii) that exceed \$245,727 in the aggregate.

You should be aware that the New York State General Municipal Law requires you to file an Annual Statement (Form ST-340) with the New York State Department of Taxation and Finance regarding the value of sales tax exemptions you, your agents, consultants or subcontractors have claimed pursuant to the authority we have conferred on you with respect to the Project. We are providing a form of a worksheet for you to track all exempt purchases made in completing the Project, using Forms ST-123 or Form ST-120.1. Please provide the Agency with a copy of Form ST-340 along with your annual report to the Agency and this worksheet. The penalty for failure to file such statement, or to provide a copy to the Agency, is the removal of your authority to act as an agent.

If, for some reason, this transaction never closes, you will be liable for payment of the sales tax, if applicable and you are not otherwise exempt, on all materials purchased.

Please sign and return a copy of this letter for our files. The Agency will issue and deliver Form ST-60 to you upon receipt of this signed agency appointment letter. The Agency reserves the right to issue a revised agency appointment letter with respect to the process for utilizing and reporting exemptions hereunder.

Very truly yours,

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: 

Name Shawna M. Papale  
Title: Executive Director

ACCEPTED & AGREED:

ECR INTERNATIONAL, INC.

By: 

Name:

PAUL Totaro

Title: VP & CFO