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TO: OCIDA Board of Directors  
FROM: Mark Kaucher  
DATE: December 11, 2021

RE: **Central Utica Building, LLC Public Hearing**, Dec. 10, 2021 Public Hearing Minutes  
WebEx teleconference and at Oneida County Legislative Chambers, 10<sup>th</sup> Floor, Oneida County  
Office Building, 800 Park Avenue, Utica.

**Attendance:** Gerald Fiorini, Chair Oneida County Board of Legislators(OCBOL); Evon Ervin (OCBOL); Tim Julian (OCBOL); Mike Billard (OCBOL); Maya Miller(OCBOL); Anthony Picente, Oneida County Executive, Dr. Michael Kelberman, CNY Cardiology; Bruce Smith, CCB Law; Robert Scholefield, MVHS; Lou Aiello, MVHS; David Quirillo, CNY Cardiology (Webex); Michael Fogel, Brown, Duke & Fogel (Webex teleconference); Patrick Donnelly, unidentified teleconference call in user.

**Representing the Agency:** Shawna Papale, Jennifer Waters, Mark Kaucher, Tim Fitzgerald

Jennifer Waters opened the public hearing opened at 10:00 AM.

Consensus of the attendees was to waive public recitation the public hearing notice. She noted that MVHS has also provided a PowerPoint presentation that will be entered into the record.

Ms. Waters invited the first speaker to the podium.

**Speaker #1, Robert Scholefield:**

Mr. Scholefield thanked the Agency for allowing him the opportunity to speak, and introduced himself as Executive Vice-President with Mohawk Valley Health System (MVHS), and explained that he is overseeing construction of the new Wynn Hospital (WH). He first noted years ago, before there was any construction beginning, the administrative staff and Board of Trustees of MVHS had to create vision statement: what is it that they were they looking to accomplish as a result of building this state of the art facility in downtown Utica. He read the statement: To create an advanced health care campus for MVHS through design that promotes the health of patients, optimizes the work environment for our care givers and serves as a catalyst for revitalization of downtown Utica. He believes this will be accomplished with this project. MVHS is making a \$611 million investment in this 672, 000 square foot building in downtown Utica. This will be a comprehensive clinical campus

that's designed for accessibilities of their providers and their patients. It is intended to be an inpatient and outpatient campus. The WH will be the inpatient facility and medical office building (MOB) associated with the WH will be the outpatient facility, with the WH being the flagship building on that campus. The MOB and ambulatory surgery center (ASC) is in adjacent proximity to the WH which is a crucial component of the clinical campus because it will provide services that will not be provided within the WH itself. The ASC is necessary to accomplish the planned outpatient services. A loss of this cohesive partnership would have a significant negative impact on the social good of this community as the comprehensive campus for all of the customers, patients, providers and staff would be lost. The MOB and the ASC is included in the clinical campus and is referenced in the certificate of need application which was approved by the State of New York in 2019. It was also included in the Downtown Revitalization Grant Application, which resulted in the \$300 million grant that was awarded to MVHS to build the WH. The MOB was also a part of the SEQR findings and environmental impact statement prepared by O'Brien and Gere, now referred to as Rambol, and this can be found in the March 19<sup>th</sup> statement on Page 8. It was always intended that this building (MOB) be developed by a third party. MVHS never intended to build the MOB building on its own and it was not part of the financing for the project, nor is it part of the grant from the state of New York. Right from the beginning they worked with local physicians to make this building a desirable location for those who are hospital-based physicians who themselves will utilize both locations to take care of their patients and the outpatients will have close proximity to the hospital itself. They were required by the New York State Department of Health, as part of their grant application, to put together a number of quality metrics, to be able to ascertain for them, what types of benefits the \$300 million grant in the downtown will bring to health care in this community. They created what they call their "Ten Aims" which are actual measurable indicators that MVHS will measure for five years after the campus project is completed to ensure that the care given within this facility improves significantly over the care that they are able to deliver today. Included in those Aims are specific items such as reduction of the amount of traffic, sound, noise and throughput within the WH/ inpatient facility, which will be accomplished by removing a lot of the outpatient services from the WH and locating them into the MOB that will be immediately adjacent to the WH but on the clinical campus. He noted on the site plan dated March 19, 2019 and submitted to the City of Utica Planning Board, the MOB at that location across from the Wynn Campus on Columbia Street was identified as a future location of a MOB, and made it clear at that meeting that it would be a third party development, but that MVHS would utilize numerous services within inside that building.

**Speaker #2, Lou Aiello:**

Mr. Aiello identified himself as the Chief Financial Officer for MVHS and talked about the future state of the campus and the MOB and the ASC that would be developed by CUB. The CUB is a group of local physicians who have stepped up to develop the MOB, which MVHS appreciates, as MVHS is focused on the financing and capital needs of the WH itself. The MOB will provide space for those physicians, particularly those that support the major product lines of the MVHS; which are identified community needs of advanced endoscopy, stroke, neurovascular, surgery and cardiac services. Those physicians also provide that advanced care and complementing services in the WH. In planning for the WH many other communities and facilities were visited to ensure that a successful

campus with programming and services was planned and developed. When planning took place years ago, MVHS and its partners did site visits around the country and repetitively saw these MOB and ASCs as part of the campuses and how successful they are, not only in complementing the care they deliver, but in the economic development of the region. Having office space adjacent to and on the campus is an integral part of the plan. The ASC itself is part of that transformation process as MHVS applied for the Certificate of Need and grant from the State of New York, to not just take the care deliver today and move it to a shiny new building, but to transform that care based upon those 10 Aims that Mr. Scholefield represented earlier. The ASC is an integral part of the plan to transform care from an inpatient setting to a more appropriate and more cost appropriate setting in the outpatient setting. In addition to the ASC, the building will also provide diagnostic services and radiology services, ultrasound, PET scan, general radiology and some lab services in a patient service center, to compliment what is going on the overall campus. An effort is to not flood the hospital with patients who don't need to be in the WH for services, but in a convenient location adjacent to it – the MOB. The ASC itself will be built with six operating rooms and the WH will have 14 operating rooms. Currently there are 22 operating rooms between the two hospital campuses as inpatient facilities. When building the new WH for the future they looked at the data and the types of cases that were being done in the hospital setting that could be done in an outpatient setting. This was how they determined the need for 14 operating rooms for the new WH, thus recognizing the ASC would handle six operating rooms, complementing the 14 in a more appropriate setting. The ASC is expected to have over 5,000 cases done annually to start. Those are cases that are now being done in the two acute care hospital campuses. The project helps the community by being in close proximity to the WH so that cohesive integrative care can be delivered on the campus. Patients know where to go for their care. Know where to go for their diagnostic care. For their outpatient treatment. Then, obviously, to the WH for their inpatient and emergency treatment. MVHS didn't just stumble across the main focus on cardiac care; the statistics show a concerning prevalence in our area which commands significant care in this area. MVHS is now the only hospital in NYS to be a cardiac hospital with their newly earned distinction. They expect growth of cardiac disease in our region to be 11% between 2022 and 2025. The other financial benefit to the community, as they shift the 5,000 surgery cases over from the hospital to the ASC, is a significant cost benefit to the patient and to the payors. This is due to a difference in reimbursement. The difference in reimbursement is because it is more cost efficient to deliver care at a lower cost in the ACS. Surgery in the hospital costs the hospital, the patient and the payor more. With this transformation in care, there will be a significant reduction in costs. Part of the plan and reason they are able to do this now is because of this transformation with the new campus as they build the new efficient hospital and system thus affording the loss of cases to the ASC because they now have a cohesive, complimentary service for our community with the MOB. He stressed that the MOB/ASC by CUB will be a property tax paying entity. A significant amount of property tax revenue will be generated. There is no payment in lieu of tax agreement being requested. In his opinion, it could end up being one of the highest assessments in the City. He explained why the requested IDA financial assistance was needed: As everyone knows, whether you are undertaking a project at one's home or ones business, material costs have increased significantly. The pandemic has had a major impact on this. In addition to the increased cost of materials, the delays in construction time have also lead to

increased costs. This applies to projects of all sizes. Without the financial assistance that is being requested, there are certain areas of the building that may not be built out or delayed, and it could affect recruitment of providers. The assistance is really needed because of the increase in costs not anticipated five years earlier when the facility was being considered and how it is going to be paid for it long term. In conclusion, he thanked the Agency.

**Speaker #3, Dr. Michael Kelberman:**

Dr. Kelberman thanked the Agency for allowing him the opportunity and introduced himself as a Senior Partner with CNY Cardiology and Director of Cardiology at MVHS. It stated that he would like to take a 10,000 foot view of health care in general and why this project is so important. Healthcare is a rapidly changing, hotly competitive environment. There are a lot of things changing and they are in competition for physicians, staff, equipment, and all of these things have escalated to heights hereto really not seen. This is an opportunity in our community to create a health system and improve a health system that would be productive going forward. Some of this requires us to change. This is synergism. This is partnerships. The health system has reached out to CNY Cardiology and asked us to partner to create the state of the art health system we need. Some examples of this are: the promise of a new hospital, the promise of an ASC and offices that are conveniently and helpfully located has already enabled them to bring on three new doctors this year. They are top doctors from the absolute best programs in the country. They are top of the line and he can supply that information to anyone interested. They are replacing retiring and older physicians and thus gearing them up for the growth anticipate in cardiac care. An important concept to consider is that the health system provides obvious care to Oneida County, but to surround counties, probably around 200,000 people or so, where they have tremendous opportunity to experience flow. Internally at CNY Cardiology, with some of the things they're doing, they expect 20 to 30% growth over the next three to five years. If you have a \$1 billion health system and everybody replicates what they're doing, which admittedly, is a very high tech competitive field, but if you have a \$1 billion health system that grows 20 to 30%, that's \$200 to \$300 million additional revenue. He noted these are high tech jobs. Its internal growth for something that is extremely important to an area and is as high-tech and productive as any entity you could attract. So with this new synergism, this competitive new health care environment, they are positioned really well. The American College of Cardiology, the doctors that practice cardiology in this country and lead the way, have created a certification system that's rigorous. They spent two years undergoing scrutiny and they are now the first health system to receive the designation of a heart center by the American College of Cardiology. There will be others eventually, but the fact that they were able to do that and being able to create an impression to a very critical group of people in an organization, speaks to their capability to do this. In terms of technology and equipment, he said cardiology and high tech medicine is moving very quickly. There is new diagnostic equipment they plan to acquire; Cardiac PET scanning is now the new frontier in diagnosing heart disease. This is crucial because the diagnosis has improved. The ability to predict how a patient will do is improved and the ability to decide what they need is improved. They are big and expensive and they currently have no room for it either. They hope to bring this new \$10 million piece of equipment into the new MOB. As for

procedures, heart valves can now be fixed without surgery, but requires highly-specialized people, and it is extremely competitive to get them. With the new hospital with a synergistic ASC working together, they will get them. They are attracting the best and the brightest and the three doctors they have gotten this year speaks to this capability. Its already having an impact. The people want to see what's there. When you show them the plans and you show them the building, that's what really impacts them to decide to come. They see this as an absolute win-win for the community. It's a very, very expensive proposition for them with an investment north of \$40 million. A lot of people involved who had to be convinced this is where the future is and they have done that. Everybody is all in and anything that can be done to help them create this absolute state of the art MOB and ASC would be greatly appreciated. He thanked the Agency.

**Speaker #4, Anthony Picente:**

County Executive Anthony Picente thanked the Agency for the opportunity to speak. He stated that the MVHS project, in total, has been a great focus for the County of Oneida, and certainly the City of Utica, and the entire region. The proposal before the Agency for the MOB along with the ASC has been a key piece from the very beginning of this process and was a key part of securing the state aid, while as Mr. Scholefield said, it is not a part of the WH, the project itself, and the entire campus footprint, had always included the MOB and the ASC , and possibly more in the future, but this one was in the first piece of it. The funding for the MOB however is not in the dollars secured from NYS but is part of the campus project itself including the surgical center as being part of the MOB, and possibly more in the future. As we look at what is taking place around, certainly the pandemic and our health care needs in this community, you are seeing these types of centers popping up around hospitals, and as Dr. Kelberman, Mr. Aiello, and Mr. Scholefield explained, and surely other professionals would do the same. They explained why it is so important to have the MOB as part of the campus and so close to the hospital. As the professionals and the medical systems will tell you, and as NYS Health and other health departments will point to, in terms of medical offices and hospital systems, the importance of having an ASC in close proximity so that the overall capacity numbers, costs, structure, and flow, can be better managed. County Executive noted he has been very involved in the hospital project as this county government has in regards to the parking facility, but in looking at the total structure of this system and what had been anticipated and what had always been there from the beginning, he supports the need for the MOB. He referenced Mr. Aiello's earlier statement regarding real property taxes, and he thinks it's important to know this group is not requesting a PILOT, and that it will be paying property taxes. He noted that the taxes paid by the MOB will probably be equal to, or as close, to what were in the parcels that were in the campus footprint before the demolition and before the construction of the hospital system. He is very supportive of this project and as he spoke to the IDA previously, he encourages them to take up this application favorably. He thanked the Agency.

Ms. Waters asked if there were any others who wished to make a public comment. On the recording Call-in user, Michael Fogel stated that he tried to answer earlier on, but his attempts were not audible at the public hearing. Ms. Waters stated that if anyone was experiencing technical

difficulties and wishes to make a statement, written comments will be accepted as outlined in the public hearing notice.

There being no further request to make statements, Ms. Waters closed the public hearing at 10:24 AM.

Subsequent to the Public Hearing, the Agency received both an e-mail and a letter from individuals who were unable to make audible contact at the public hearing, but who wished to make public statements. An email/ letter from Patrick Donnelly/ Michael Fogel, Brown Duke & Fogel, is attached to this memo and the text from the email from David Quirillo, CNY Cardiology, can be found below:

**December 10, 2021 e-mail From David Quirillo, CMPE, Chief Financial Officer, CNY Cardiology:**

“I joined the public hearing via Web Ex. When I went speak no one could hear. I wanted to comment on the cost benefit analysis. “Previous speakers spoke to the benefit of both the enhanced integrated health services and positive financial impact on the community. But more specifically factoring the retained and created jobs, the multipliers or both the indirect jobs and construction jobs this project provides just under \$100MM in earnings in the first three years alone. Those earnings generate \$4,000,000 in revenues from income. It just doesn’t stop there as these individuals will buy new cars, gas, stay in hotels, eat-in restaurants and purchase other taxable goods and services. Sales tax generated by this is estimated at almost \$3,500,000. Additionally, the same individuals will buy or build homes generating another \$700,000 plus in revenues related to property taxes. A total of between \$8-8.5MM in benefit to the community.” Please let me know if you have any questions.”

Respectfully submitted,

Mark Kaucher

Attached: Brown Duke & Fogel, P.C. December 10, 2021 Letter  
MVHS PowerPoint Presentation

# BROWN DUKE & FOGEL, P.C.

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December 10, 2021

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**Re: Central Utica Building, LLC Application for Financial Assistance  
Public Hearing on December 10, 2021 at 10 a.m.**

Dear Executive Director Papale and Oneida County Industrial Development Agency:

This office represents Bowers Development, LLC (“Bowers Development”).

Please accept this letter as Bowers Development’s comments on the Central Utica Building, LLC Application for Financial Assistance (the “Application”) to the Oneida County Industrial Development Agency (“OCIDA”). Pursuant to the instructions contained in the Notice of Hearing, we dialed in to the call-in number provided promptly at 10 a.m. Unfortunately, when I attempted to identify myself you could not hear me. I even attempted to dial in from a different phone and announced myself but was still unable to be heard. It appears it was a technical problem on your end. My office was able to reach Executive Director Shawna Papale by phone after the hearing, and Executive Director Papale directed my office to submit our comments by email today and stated that our comments will be included with the public hearing transcript.

Bowers Development is one of the most active developers in the City of Utica. Bowers Development is the contract-vendee of the property located at 411 Columbia Street (Tax Map 218.-41-2-38) (the “O’Brien Parcel”) and will be constructing a brand-new medical office building (“MOB”) on the O’Brien Parcel. Both Central Utica Building, LLC and Mohawk Valley Health System are fully aware of Bowers Development’s contract-vendee status and intent to construct its own MOB on the O’Brien Parcel. Yet, without Bowers Development’s consent or permission, the O’Brien Parcel has been included in the Application as part of the Central Utica Building, LLC MOB project. In fact, the Application acknowledges that Central Utica Building, LLC does not own or control the O’Brien Parcel, but yet admits that “[w]ithout this property it will be impractical if not impossible to construct the MOB as proposed.” It is disturbing and shocking that Central Utica Building, LLC would submit an Application for a project which includes property that it admits that it does not even own or control and which by its own admission it needs to construct the project. This should not be tolerated by OCIDA.

Therefore, we submit that OCIDA should not, and in fact, cannot as a matter of law, proceed to process, let alone approve, the Application because Central Utica Building does not even own all of the property which is part of the Application.

Furthermore, it would be improper for OCIDA to proceed to condemn the O'Brien Parcel by eminent domain, as requested by Central Utica Building, LLC. As a threshold matter, OCIDA should not be taking property from one private property owner and developer who intends to develop an MOB and give it to another developer to develop an MOB. This is not consistent with the purpose and authority of OCIDA, and we believe it would also be in violation of Eminent Domain Procedure Law.

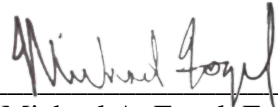
Nonetheless, if OCIDA does proceed with eminent domain, Bowers Development fully intends to oppose the taking and will pursue any-and-all legal remedies available to it to prevent such taking, and to seek just compensation, if such taking does occur. In addition, any taking of the O'Brien Parcel will result in significant direct, indirect and consequential financial damages to Bowers Development for which it fully intends to seek compensation for from all responsible parties.

Further, based on the Application that has been made available to the public, the Application appears to be incomplete. It appears to be missing the required completed SEQRA forms, and a completed Cost Benefit Analysis. Therefore, these documents need to be completed by the Applicant, and provided to the public for comment before OCIDA moves forward with processing and potentially approving the Application.

Thank you for your attention to this matter. Please include this letter in the record of your consideration of the Application.

Very truly yours,

BROWN DUKE & FOGEL, P.C.

By:   
Michael A. Fogel, Esq.