

RESOLUTION OF THE ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (A) APPROVING THE CERTAIN THE FINDINGS AND DETERMINATIONS UNDER ARTICLE 2 OF THE EMINENT DOMAIN PROCEDURES LAW OF THE STATE OF NEW YORK ("EDPL") AND SYNOPSIS THEREOF; (B) AUTHORIZING THE PUBLICATION OF THE SYNOPSIS IN THE OBSERVER DISPATCH IN TWO SUCCESSIVE ISSUES; AND (C) APPROVING THE SERVICE OF A NOTICE OF THE SYNOPSIS OF THE FINDINGS AND DETERMINATIONS ON THE RECORD OWNER AND CONTRACT VENDEE PURSUANT TO EDPL SECTION 204(C)

WHEREAS, Central Utica Building, LLC (the "Company") presented an application (the "Application") to the Oneida County Industrial Development Agency (the "Agency") requesting that the Agency consider the provision of financial assistance supporting the 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 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 the construction and equipping of the Improvements is referred to as the "Project"); and (ii) to provide certain financial assistance in support of the Project, consisting of exemptions from sales and use taxes and exemptions from mortgage recording taxes, pursuant to Article 18-A of the General Municipal Law of the State of New York and Chapter 372 of the Laws of 1970 of the State of New York, as may be amended from time to time (collectively, the "Act"); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations"), the City of Utica Planning Board (the "Planning Board") served as Lead Agency (as defined in the SEQR Act and Regulations) for purposes of conducting a coordinated review of the environmental impacts of a certain project undertaken by the Mohawk Valley Health System ("MVHS") consisting of construction of a 670,000± square foot hospital, central utility plant, parking facilities (one municipal parking garage and multiple surface lots), medical office building (by private developer), campus grounds, utility/pedestrian bridge (over Columbia Street) and helipad (the "MVHS Project"), all in accordance with the SEQR Act and the Regulations; and

WHEREAS, by resolution adopted April 18, 2019 (the "Planning Board SEQRA Resolution"), the Planning Board determined to issue a written findings statement regarding the relevant environmental impacts, facts and conclusions disclosed in the Planning Board's Final Environmental Impact Statement dated February 2019 and accepted by the Planning Board on March 21, 2019 (the "FEIS") in accordance with the requirements of Section 617.11 of the Regulations; and

WHEREAS, the Planning Board issued a Findings Statements under SEQRA (the "Findings Statement") wherein the Planning Board concluded with respect to the MVHS Project that: (1) the requirements of 6 NYCRR Part 617 have been met; and (2) consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable; and

WHEREAS, the Agency adopted a Statement of Findings on January 21, 2022 for the Facility pursuant to which the Agency found: (1) the Facility is located in a "highly distressed area" as such term is defined in Section 854(18) of the Act; (2) the Facility will preserve, 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 (3) that there was no material change in the scope of the Project under SEQRA that would affect the Findings Statement adopted by the Planning Board.

WHEREAS, 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;

WHEREAS, to accommodate the parking requirements for the Facility, the Company represented that it must acquire an interest in the property located at 411 Columbia Street, City of Utica, Oneida County, New York a/k/a SBL No.: 318.41-2-38 (the "O'Brien Property") in order for the Project to proceed;

WHEREAS, on January 14, 2022, CUB represented that it was unable to obtain ownership or control of the O'Brien Property and requested that the Agency initiate proceedings under the EDPL to acquire the O'Brien Property;

WHEREAS, on or about February 2, 2022, the Agency issued its Notice of a Public Hearing, pursuant to the EDPL, for a 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 (the "Public Hearing");

WHEREAS, pursuant to Article 2 of the EDPL, on February 3, 2022, the Agency 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") and upon a contract vendee for the Property being Bowers Development, LLC ("Bowers");

WHEREAS, 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;

WHEREAS, 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.

WHEREAS, the delivery of the Notice of Public Hearing to O'Brien and Bowers both occurred on February 7, 2022;

WHEREAS, in compliance with EDPL §203, the Agency 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;

WHEREAS, a transcript of the Public Hearing was made available for review at the offices of the Agency and the Oneida County Clerk

WHEREAS, all written statements submitted to the Agency both before and after the Public Hearing were made available to the Board of Directors of the Agency and to the public for inspection at the offices of the Agency and the Oneida County Clerk.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Pursuant to Section 204(A) of the EDPL, the Agency hereby approves the issuance of the Findings and Determination (the "Findings") with respect to the proposed public project consisting of the acquisition of the O'Brien Property for surface parking by eminent domain which Findings are attached hereto as **Exhibit "A"** and by this reference are deemed incorporated herein as if set forth in its entirety herein.

Section 2. Pursuant to Section 204(A) of the EDPL, the Agency hereby approves the issuance of the Synopsis of the Findings (the "Synopsis") with respect to the proposed public project consisting of the acquisition of the O'Brien Property for surface parking by eminent domain which Synopsis is attached hereto as **Exhibit "B"** and by this reference are deemed incorporated herein as if set forth in its entirety herein.

Section 3. Pursuant to Section 204(C) of the EDPL, the Agency hereby approves the issuance of the Notice of the Synopsis ("Notice") with respect to the proposed public project consisting of the acquisition of the O'Brien Property for surface parking by eminent domain which Notice is attached hereto as **Exhibit "C"** and by this reference are deemed incorporated herein as if set forth in its entirety herein.

Section 4. Pursuant to Section 204(A) of the EDPL, the Agency hereby approves the publication of the Synopsis in The Observer Dispatch in at least two successive issues.

Section 5. Pursuant to Section 204(C) of the EDPL, the Agency hereby approves the service of the Notice by personal service or mailing by certified mail return receipt requested upon O'Brien, the record owner of the O'Brien Property reflected on the 2021 assessment roll of the City of Utica, and Bowers, the contract vendee of the O'Brien Property.

Section 6. The Chairman of the Agency is authorized to execute and deliver the Findings, the Synopsis and the Notice.

Section 7. The Agency authorizes the staff of the Agency and Special Counsel, Goldman Attorneys PLLC to undertake any and other work, notices, filings and/or submissions required under Article 2 of the EDPL (Determination of the Need and Location of a Public Project Prior to Acquisition) including without limitation, the preparation of copies of the Findings, the publication of the Synopsis and the service of the Notice upon the owner of the O'Brien Property and the contract vendee.

Section 8. The Agency hereby ratifies, confirms and approves all prior actions taken by the Agency, its directors, officers, employees and agents, with respect to the Project.

Section 9. This resolution shall take effect immediately.

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

I, the undersigned Secretary of the Oneida County Industrial Development Agency, **DO HEREBY CERTIFY THAT:**

I have compared the foregoing copy of a resolution of the Oneida County Industrial Development Agency (the "Agency") with the original thereof on file in the office of the Agency, and the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Board of Directors of the Agency duly convened in public session on April 7, 2022 at 8:00 a.m. local time, at 584 Phoenix Drive, Rome, New York 13440 at which the following members were:

- Members Present: David C. Grow
 Michael Fitzgerald
 Mary Faith Messenger
 Ferris Betrus Jr.
 Kirk Hinman
 Eugene F. Quadraro
 Stephen R. Zogby

- Staff Present: Shawna Papale Secretary/Executive Director
 Jennifer Waters Assistant Secretary
 Stephen Dimeo
 Laura Cohen

- Others Present: Paul J. Goldman, Esq., Special Counsel

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

<u>Voting Aye</u>	<u>Voting Nay</u>	None
David C. Grow		
Michael Fitzgerald		
Mary Faith Messenger		
Ferris Betrus Jr.		
Kirk Hinman		
Eugene F. Quadraro		
Stephen R. Zogby		

and, therefore, the resolution was declared duly adopted.

I FURTHER CERTIFY that (i) all directors 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 103a and 104, (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 the 8th day of April, 2022.

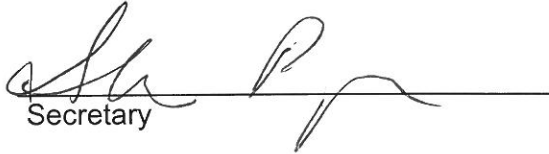

Secretary

EXHIBIT "A"
THE DETERMINATION AND FINDINGS

EXHIBIT "B"

FORM OF THE SYNOPSIS OF THE DETERMINATION AND FINDINGS

On April 7, 2022, the Board of Directors of the Oneida County Industrial Development Agency (the "OCIDA") approved its certain Determination and Findings dated April 7, 2022 (the "Findings") in connection with respect to the proposed acquisition by eminent domain of the certain real property known as 411 Columbia Street, City of Utica, Oneida County, New York a/k/a Section 318.41, Block 2, Lot 38 (the "O'Brien Property"). Pursuant to Section 204(A) of the Eminent Domain Procedures Law (the "EDPL"), this letter is the brief synopsis of the Findings.

In the Findings and pursuant to EDPL Section 204(A) and Section 204(B), the OCIDA determined the following:

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 Final Environmental Impact Statement as being used as surface parking and will help solve traffic and congestion problems by providing parking for the residents accessing the Central Utica Building LLC Medical Office Building ("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 (the "County") in order to improve the health and welfare of the residents of the County. The proposed acquisition of the O'Brien Property and use surface parking was part of the development of the Integrated Health Campus ("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 General Municipal Law ("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 are 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 are 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 area 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 an empty building 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 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.

A copy of the Findings will be forwarded by the OCIDA to any party making a written request for such Findings to the OCIDA, and the Findings will be provided at no cost to any party requesting the Findings. Any request for the Findings should be sent to OCIDA at 584 Phoenix Drive, Rome New York 13441 Attention: Shawna M. Papale, Secretary/Treasurer/ Executive Director.

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: /s/ _____
David C. Grow, Chairman

April 7, 2022

EXHIBIT "C"

FORM OF THE NOTICE OF THE SYNOPSIS

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

584 Phoenix Drive
Rome, New York 13441

April 7, 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:

Pursuant to Section 204(C) of the New York State Eminent Domain Procedure Law ("EDPL"), this letter shall serve as the notice of the completion of the synopsis of the Determination and Findings made by the Oneida County Industrial Development Agency ("OCIDA") on April 7, 2022 with respect to the public purpose served by the acquisition of the above referenced Property by eminent domain (the "Findings").

1. Pursuant to Section 204(C)(1) of the EDPL, notice is hereby given that the approximate location of the proposed public project is the entirety of the Property and the reasons for the selection of the Property as surface parking is as follows:

There are no other immediately adjacent surface parking alternatives capable of handling the parking requirements of the Central Utica Building, LLC Medical Office Building ("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 Final Environmental Impact Statement issued by the City of Utica Planning Board 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.

2. Pursuant to Section 204(C)(2) of the EDPL, a copy of the Findings will be forwarded by the OCIDA to any party making a written request for such Findings to the OCIDA, and the Findings will be provided at no cost to any party requesting the Findings. Any request for the Findings should be sent to OCIDA at 584 Phoenix Drive, Rome New York 13441 Attention: Shawna Papale, Executive Director.

3. Notice is hereby given that pursuant to EDPL Section 207, you have thirty (30) days from the completion by the OCIDA of the publication requirement set forth in EDPL Section 204(A) to seek judicial review of the Findings made by the OCIDA with respect to the above referenced Property.

4. Notice is hereby given that pursuant to EDPL Section 208, the exclusive venue for judicial review of the Findings of OCIDA for the Property is the Appellate Division Fourth Department, 50 East Avenue, Suite 200, Rochester, New York 14604.

Very truly yours,

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
David C. Grow, Chairman

cc. Ms. Shawna Papale, Executive Director
Paul J. Goldman, Esq.
Brown, Duke & Fogel, P.C.