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# APPLICATION FOR FINANCIAL ASSISTANCE

**Oneida County Industrial Development Agency**

584 Phoenix Drive

Rome, New York 13441-1405

(315) 338-0393 telephone

(315) 338-5694 fax

Shawna M. Papale, Executive Director

spapale@mvedge.org

Please submit the signed and notarized completed application (Pages 1-25 ONLY), which must include any applicable addendum or supplemental information requested in the application, along with payment of a non-refundable \$500 Application Fee and a \$1,000 Commitment Fee (will be applied to final closing costs) to the Oneida County Industrial Development Agency, 584 Phoenix Drive, Rome NY 13441-1405, within 14 days prior to the OCIDA Board of Directors meeting at which you want the Application to be included on the Agenda. Wire transfer and ACH payments are acceptable but all related fees incurred by the Agency are payable by the Applicant. An electronic version of the application must accompany the original application via physical media or e-mail.

CENTRAL UTICA BUILDING

Project Name

Date of Submission

11/12/2021

## **Important Notes to Applicant:**

Upon the submission of this application to the OCIDA, the application becomes a public document. Be advised that any action brought before the Agency is public information. All agendas for the OCIDA are issued publicly prior to the full agency meeting. **IF THERE IS INFORMATION SUBMITTED THAT THE APPLICANT BELIEVES IS PROPRIETARY, PLEASE IDENTIFY IT AS SUCH AND THAT INFORMATION WILL BE TREATED CONFIDENTIALLY TO THE EXTENT PERMITTED BY LAW.**

The information requested by this application is necessary to determine the eligibility of your project for OCIDA benefits. Please answer all questions and respond “Not Applicable”, “NA”, or “none” where appropriate. If you’re response is an estimate, please indicate so. Attach additional sheets if more space is needed for a response. **All applications must include a completed and signed NYS SEQR form and Cost Benefit Analysis form (please consult with OCIDA) before the application is considered complete.**

By signing and submitting this Application, the Applicant acknowledges that it received a copy of the Uniform Tax Exemption Policy and the Oneida County IDA Penalty for Failure to Meet Employment Levels as adopted by the Agency and Agency Memorandums pertaining to the benefits of projects financed through the Agency.

A project financed through the Agency involves the preparation and execution of significant legal documents. Please consult with an attorney before signing any documents in connection with the proposed project. You will receive an engagement letter from the OCIDA legal counsel. You will be asked to sign the engagement letter acknowledging you will be responsible for all legal fees of OCIDA legal counsel and that you understand the process. Should you not close and legal services have been rendered by the OCIDA legal counsel, Applicant will be responsible for those costs.

If your project requires a public hearing, a representative of the applicant is required to be present. A date will be coordinated by the OCIDA legal counsel.

If you have any questions how to calculate the OCIDA’s application fee please refer to the enclosed Memorandum to Companies -Sale Leaseback Transactions or contact the OCIDA.

Please submit the signed and notarized completed application along with payment of a non-refundable **\$500 Application Fee** and a **\$1,000 Commitment Fee** (will be applied to final closing costs) to the **Oneida County Industrial Development Agency**, 584 Phoenix Drive, Rome NY 13441-1405, **within 14 days prior to the OCIDA Board of Directors meeting at which you want the Application to be included on the Agenda.** Wire transfer and ACH payments are acceptable but all related fees incurred by the Agency are payable by the Applicant. An electronic version of the application must accompany the original application via physical media or e-mail.

**Part I: Applicant Information**

**Note:** In responding to the following questions, please keep in mind that the Applicant will be party to all of the documents and is the individual or if entity will be formed which will receive the actual financial assistance from the Agency.

**Applicant**

1(a) Applicant's Legal Name: Central Utica Building, LLC

1(b) Principal Address: 2211 Genesee Street

Utica NY 13501

1(c) Telephone/Facsimile Numbers: (315) 733-7598

1(d) Email Address: dquirello@cnycardiology.com

1(e) Federal Identification Number: 86-3656655

1(f) Contact Person: David Quirello

1(g) Is the Applicant a

Corporation: If Yes, Public  Private   
If public, on which exchange is it listed?

Subchapter S  
 Sole Proprietorship  
 General Partnership  
 Limited Partnership  
 Limited Liability Corporation/Partnership  
 Single-Member LLC (name and EIN below):

Name: \_\_\_\_\_

EIN #: \_\_\_\_\_

DISC \_\_\_\_\_

Other(specify) \_\_\_\_\_

1(h) State of Organization (if applicable) New York

**Applicant's Stockholders, Members, Directors and Officers, Partners**

2(a) Provide the following information with respect to parties with 15% or more in equity holdings:

<u>Name</u>	<u>Address</u>	<u>Percentage of Ownership</u>
Central Utica Building LLC (CUB) is owned as follows: CNYC Realty, LLC - 30% 5DOCS, LLC -70%  The owners of CNYC Realty, LLC and 5DOCS, LLC are the shareholders of Central New York Cardiology, P.C. as follows:  Ashok R. Patel M.D. Michael W. Kelberman, M.D. Prabhath K. Varma, M.D. Peter S. Holvedt, M.D. Hugh C. MacIsaac, M.D. Gerry A. Love, M.D. Darius J. Marhamati, M.D. Daniel E. Berg, M.D. Thor T. Markwood, M.D. Michael A. Sassower, M.D.		

2(b) Is the Applicant, or any of the individuals listed in 2(a) above, related directly or indirectly to any other entity by more than 50% common ownership? **If Yes**, indicate name of such entity and the relationship.  Yes  No

The members of CNYC Realty, LLC and 5DOCS, LLC are shareholders of Central New York Cardiology, P.C.  
 The shareholders of Central New York Cardiology, P.C. are listed in 2(a) above.

2(c) Is the Applicant affiliated with any other entity, directly or indirectly, other than as listed in the response to 2(a) above? **If Yes**, please indicate name and relationship of such other entity and the address thereof:  Yes  No

## Applicant's Counsel and Accountant

### 3(a) Applicant's Attorney

Name/Title: Bruce Smith

Firm: Cohen Compagni Beckman Appler & Knoll, PLLC

Address: 507 Plum Street, Suite 310  
Syracuse NY 13204

Telephone/Fax: (315) 477-6291

Email: bsmith@ccblaw.com

### 3(b) Applicant's Accountant

Name/Title: Allison Greco

Firm: D'Arcangelo & Co., LLP

Address: 120 Lomond Court  
Utica NY 13502

Telephone/Fax: (315) 735-5216

Email: agreco@darcangelo-cny.com

## Business Description

4(a) Describe the nature of your business and principal products and/or services. Attach additional sheets if necessary.

Central Utica Building, LLC proposes to construct an approximately 70-80,000 square foot state-of-the-art medical office building (the "MOB") adjacent to the new Wynn Hospital of the Mohawk Valley Health System. As discussed in 5(a) below, the MOB will be occupied primarily by Central New York Cardiology, P.C. (~20-22,000 sf), Mohawk Valley ASC, LLC, a for-profit physician-hospital joint venture owned by MVHS and local physicians that will construct and operate an Article 28 multi-specialty ambulatory surgery center (~18,000 sf) and Mohawk Valley Health System ("MVHS") (~14-17,000 sf) for various specialty medical clinics and other services.

**Part II: Project Information**

**5(a)** Explain your project in detail. This description should include explanation of all activities which will occur due to this project. Attach additional sheets if necessary.

See Attachment

**Reasons for Project**

**6(a)** Please explain in detail why you want to undertake this project.

See Attachment

**6(b)** Why are you requesting the involvement of the Agency in your project?

The sales tax and mortgage recording tax benefits provided by the Agency are an important part of the financing plan for the MOB and for CNYC's tenant improvement build out and its acquisition of FF&E, including medical equipment.

Acquiring the parcel of property located at 411 Columbia St./Site Tax Map 318.041-2-38 (the "O'Brien Parcel") to provide patient parking for the MOB is critical. Without this property it will be impractical if not impossible to construct the MOB as proposed. If CUB is unable to acquire the O'Brien Parcel from the property owner CUB will request that the Agency acquire the property through eminent domain.

6(c) Please confirm by checking the box below, if there is the likelihood that the Project would not be undertaken **BUT FOR** the Financial Assistance provided by the Agency.

Yes     No

If the Project could be undertaken without Financial Assistance provided by the Agency, ("**No**" is checked above) then provide a statement in the space provided below indicating why the Agency should approve the requested assistance:

In addition to the need for the requested financial assistance, this project should be undertaken by the Agency because (i) the services provided by the MOB's tenants are needed in the community; (ii) the location of the MOB--and the health care services provided by its tenants--will allow for the development of an integrated health care delivery system among the Wynn Hospital and physician providers improving the quality and accessibility of health care services in the community.

How will the Applicant's plans be affected or scaled back if Agency approval is not granted?

It is likely that the MOB would not be built in a location in downtown Utica adjacent to the Wynn Hospital, a location preferred by the Wynn Hospital, the MOB's proposed tenants and the patient populations of both.

6(d) Is the proposed project reasonably necessary to discourage the Applicant from removing such other plant or facility to a location outside the State of New York?

Yes     No    **If Yes**, please explain briefly.

6(e) Will financing by the Agency result in the removal or abandonment of a plant or other facility of the applicant or any related entity presently located in another area of New York State?

[  Yes    [  No

**If Yes**, is the proposed project reasonably necessary to preserve the competitive position of the Applicant in its respective industry?     Yes     No

**If Yes**, please provide a statement and evidence supporting the same. Include the name of all taxing jurisdictions in which the abandoned facility or plant lies, and whether Applicant has had any discussions with said taxing jurisdictions regarding the abandonment. Please provide as much detail as possible.

6(f) Has the Applicant or any related entity previously secured financial assistance in Oneida County (whether through the Agency, the Empire State Development Corporation, or any other entity) ?  Yes  No

**If Yes**, please explain (indicate date of benefit, location of facility and outstanding balance).

6(g) Has the Applicant or any related entity secured financial assistance anywhere within the United States within the last 90 days or does the Applicant or any related entity anticipate receiving financial assistance within the next 90 days?  Yes  No

**If Yes**, please explain.

6(h) Check all categories best describing the type of project for all end users at project site (you may check more than one; if checking more than one indicate percentage of square footage the use represents):

Please provide percentage of sq. footage for each use (if more than one category):

<input type="checkbox"/>	Manufacturing	<input type="text"/>	%
<input type="checkbox"/>	Industrial Assembly or Service	<input type="text"/>	%
<input type="checkbox"/>	Back office operations	<input type="text"/>	%
<input type="checkbox"/>	Research and Development	<input type="text"/>	%
<input type="checkbox"/>	Technology/Cybersecurity	<input type="text"/>	%
<input type="checkbox"/>	Warehousing	<input type="text"/>	%
<input checked="" type="checkbox"/>	Commercial or Recreational	40	%
<input checked="" type="checkbox"/>	Retail	60	%
<input type="checkbox"/>	Residential housing (specify) _____	<input type="text"/>	%
<input type="checkbox"/>	Pollution Control (specify) _____	<input type="text"/>	%
<input type="checkbox"/>	Environmental (e.g., Brownfield) (specify) _____	<input type="text"/>	%
<input type="checkbox"/>	Other (specify ie; renewable energy) _____	<input type="text"/>	%

Addendum Required

Addendum Required



6(i) Check all categories best describing the **scope of the project**:

- Acquisition of land
- Acquisition of existing building
- Renovations to existing building
- Construction of addition to existing building
- Demolition of existing building or part of building
- Construction of a new building
- Acquisition of machinery and/or equipment
- Installation of machinery and/or equipment
- Other (specify) \_\_\_\_\_

6(j) Please indicate the financial assistance you are requesting of the Agency, and provide the estimated value of said assistance. Attach a sheet labeled Annual PILOT that shows the annual utilization of the Real Property Tax Abatement by year and by taxing jurisdiction (PLEASE CONSULT WITH IDA STAFF ON PILOT CALCULATIONS).

<u>Assistance Requested</u>	<u>Estimated Values</u>
<input type="checkbox"/> Real Property Tax Abatement (value of PILOT savings)	\$ _____
<input checked="" type="checkbox"/> Mortgage Tax Exemption (.75%)	<u>128,138</u>
\$ Amount of mortgage: <u>\$17,085,000</u>	
<input checked="" type="checkbox"/> Sales and Use Tax Exemption ** (8.75%)	<u>\$1,820,000</u> (Not available for solar)
Value of goods/services to be exempted from sales tax: <u>\$20,800,000</u>	
<input type="checkbox"/> Issuance by the Agency of Tax Exempt Bonds(bond dollar value)\$_____	

**TOTAL EXEMPTION ASSISTANCE REQUESTED: \$ 1,948,138**

Is the financial assistance requested by the Applicant consistent with the IDA's Uniform Tax Exemption Policy?  Yes  No

**If No**, please provide a written statement describing the financial assistance being requested and detailing the reasons the IDA should consider deviating from its Policy.

**\*\* Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents will include a covenant by the Applicant that the estimate, above, represents the maximum amount of sales and use tax benefit currently authorized by the Agency with respect to this Application. The Agency may utilize the estimate, above, as well as the proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered. It is the responsibility of the applicant to inform the IDA within 10 days if the project amount changes.**

**Part III: Facility Information**

**Attach copies of the most recent real property tax bills. Include copies for all taxing jurisdictions for the site/ facility that IDA assistance is being sought.**

**Facility (Physical Information) If multiple locations please provide information on all.**

7(a) Street Address of Facility:

601 State Street (Corner of State & Columbia)

7(b) City, Town and/or Village (list ALL incorporated municipalities):

Utica, NY

7(c) School District:

Utica City School District

7(d) For what purpose was the facility site most recently used (i.e., light manufacturing, heavy manufacturing, assembly, etc.)?

Wholesale, Service Sector

7(e) Zoning Classification of location of the project:

Central Business District/Commercial

7(f) Please describe in detail the facility to be acquired, constructed or renovated (including number of buildings, square footage, number of floors, type of construction,) and attach plot plans, photos or renderings, if available. If there are infrastructure improvements (water, sewer, gas, electrical, etc.) please provide details along with who will carry out those improvements and who will fund them. ***Please be as specific as possible.***

See answer to 5(a) on the Attachment.

All new building utilities will be connected to the existing infrastructure ( MVWA, National Grid, Spectrum, Verizon City Storm, City/County sanitary sewers) that reside on both Columbia & State Streets and will be included in the project.

7(g) Has construction or renovation commenced?  Yes  No

**If Yes**, please describe the work in detail that has been undertaken to date, including the date of commencement.

**If No**, indicate the estimated dates of commencement and completion:

Construction Commencement: 3/2022

Construction completion: 7/2023

7(h) Will the construction or operation of the facility or any activity which will occur at the site require any local ordinance or variance to be obtained or require a permit or prior approval of any state or federal agency or body (other than normal occupancy and/or construction permits)?

Yes  No

**If Yes**, please describe.

The physician-hospital ambulatory surgery center joint venture will require certificate of need approval from the New York State Department of Health.

Has the Project received site plan approval from the Planning Department?

Yes  No  N/A

**If Yes**, please provide the Agency with a copy of the planning department approval along with the related State Environmental Quality Review (SEQR) determination. If no, please provide the status of approval:

This was included in the MVHS/Wynn Hospital site plan approval.

7(i) Will the project have a significant effect on the environment?  Yes  No

**Important: please attach and sign Part 1 of either the the long or short Environmental Assessment Form to this Application.**

7(j) What is the useful life of the facility? 100 years

7(k) Is the site in a former Empire Zone?  Yes  No Utica Empire Zone

**If Yes**, which Empire Zone: \_\_\_\_\_  
Is project located in a Federal HUB Zone or distressed area:  Yes  No  
Provide detail.

Census Tract 264

ALL APPLICANTS MUST ANSWER PART IV-8(a)

**Part IV: Retail Project Questionnaire**

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

**8(a).** Will any portion of the project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?

Required  Yes or  No **If the answer is YES, please continue below.**  
**If the answer is NO, proceed to Section Part V - Facility (Legal Info)**

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

**8(b).** What percentage of the cost of the Project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project? 60.00 %. **If the answer is less than 33% do not complete the remainder of this retail determination page and proceed to next section, Part V Facility (Pg 13)**

**\* If the answer to A above is Yes AND the answer to B above is greater than 33.33%, indicate which of the following questions below apply to the project:**

1. Will the project be operated by a not-for-profit corporation  Yes  No

2. Is the Project location or facility likely to attract a significant number of visitors from outside Oneida County?

Yes  No

If yes, please provide a third party market analysis or other documentation supporting your response.

3. Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services?

Yes  No

If yes, please provide a third party market analysis that demonstrates that a majority of the project's customers are expected to come from outside of Oneida County and the project will not directly compete with existing businesses located in Oneida County.

**Part V: Facility (Legal Information)**

**9(a)** With respect to the **present owner** of the land or facility, please give the following information and provide a brief statement regarding the status of the acquisition.

*(Note: the present owner is not necessarily the user of the facility, but that party which holds legal title to the facility.)*

Legal Name: Mohawk Valley Health System

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Balance of Mortgage: N/A

Holder of Mortgage: N/A

If the Applicant is not the present owner of the facility, please attach any written agreements and contracts concerning the acquisition of the real property and/or equipment.

**See Attachment**

**9(b)** Is there a legal relationship, directly or indirectly, by virtue of common control or through related persons, between the Applicant and the present owner of the facility?  
 Yes  No. **If Yes**, please explain.

\_\_\_\_\_

**9(c)** Will a related real estate holding company, partnership or other entity, be involved in the ownership structure of the transaction?  
 Yes  No. **If Yes**, please explain.

CUB will acquire the property by ground lease or purchase, construct the MOB and lease space within the MOB.

**9(d)** Will the title owner of the facility/property also be the user of the facility?  
 Yes  No **If Yes**, please explain.

\_\_\_\_\_

9(e) Is the Applicant currently a tenant in the facility?  Yes  No

9(f) Are you planning to use the entire proposed facility?  Yes  No

**If No**, please give the following information with respect to tenant(s) which will remain in the facility after the completion of the project, including the square footage the Applicant will occupy:

<u>Name of Tenant</u>	<u>Floors Occupied</u>	<u>Sq. Ft. Occupied</u>	<u>Nature of Business</u>
See Attachment			

9(g) Are any of the tenants related to the owner of the facility?  Yes  No **If Yes**, please explain.

Central New York Cardiology, P.C. is an affiliate of CUB.

9(h) Will there be any other users utilizing the facility?

Yes  No

**If Yes**, please explain. Provide detail of the contractual arrangement including any financial exchange for the use of the site or property.

All tenants of the building will be signing 10-30 year leases. No leases have been signed.

### Part VI: Equipment

10(a) List the principal items or categories of equipment to be acquired as part of the project. If you are requesting sales tax exemption it is important to be as detailed as possible. (If a complete list is not available at time of application, as soon as one is available but prior to final authorizing resolution, please submit a detailed inventory of said equipment to be covered.) Attach a sheet if needed.

Medical equipment, computer equipment, etc.

10(b) Please provide a brief description of any equipment which has already been purchased or ordered, attach all invoices and purchase orders, list amounts paid and dates of expected delivery. Attach a sheet if needed.

No equipment has been purchased or ordered.

10(c) What is the useful life of the equipment? 7-10 years \_\_\_\_\_ years

**Part VII: Employment Information**

"FTE" shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the company.

**11(a)** Estimate how many construction jobs will be created or retained as a result of this project.

100

**11(b)** Will the project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York?

Yes  No **If Yes**, explain below.

See Attachment

**11(c)** Have you experienced any employment changes (+ or -) in the last three (3) years?

Yes  No **If Yes**, explain below.

**11(d)** Job Information related to project \*\*\*

Estimate below how many jobs will be created and retained as a result of this project, if OCIDA assistance is granted. **PLEASE MAKE SURE TOTAL PART-TIME EMPLOYEES ARE TURNED INTO FULL-TIME EQUIVALENTS (FTE) for Line B. - See Pg. 17.**

Number of Jobs BEFORE Project	Location 1	Location 2	Location 3	Location 4	Location 5	
Address in NYS	CNYC 2211 Genesee St Utica NY	St. Elizabeth Hosp. and St. Luke's Hospital				<b>Total</b>
Full-Time Company	116	23				139
Full-Time Independent Contractors						
Full-Time Leased						
<b>A. Total Full-Time BEFORE</b>	116	23				139
Part-Time Company	15					15
Part-Time Independent Contractors	5					5
Part-Time Leased						
<b>B. Total FTE Part-Timers BEFORE</b>	7.5					7.5
<b>C. Total FTE BEFORE*</b>	123.5	23				146.5

\*For **Total FTE BEFORE** add full-time employees (line A) plus part-time employees that have been converted to FTE (line B).

	<b>Number of Jobs AFTER Project (within 3 years of project completion)</b>	<b>Location 1 CNYC MOB</b>	<b>Location 2 ASC MOB</b>	<b>Location 3</b>	<b>Location 4</b>	<b>Location 5</b>	<b>Total</b>
	Full-time Company	121	32				153
	Full-Time Independent Contractors						
	Full-Time Leased						
<b>A.</b>	<b>Total Full-Time AFTER</b>	<b>121</b>	<b>32</b>				<b>153</b>
	Part-Time Company	16					16
	Part-Time Independent Contractors	5					5
	Part-Time Leased						
<b>B.</b>	<b>Total FTE Part-Timers AFTER</b>	<b>7.9</b>					<b>7.9</b>
<b>C.</b>	<b>Total FTE AFTER *</b>	<b>128.9</b>	<b>32</b>				<b>160.9</b>

\*For **Total FTE AFTER** add full-time employees (line A) plus part-time employees that have been converted to FTE (line B).

	<b>Estimate the number of residents from the Labor Market Area** in which the Project is located that will fill the jobs created within three years of project completion</b>	<b>Location 1</b>	<b>Location 2</b>	<b>Location 3</b>	<b>Location 4</b>	<b>Location 5</b>	<b>Total</b>
<b>A.</b>	Full-Time	4	8				12
<b>B.</b>	FTE Part-Timers						0
<b>C.</b>	<b>Total AFTER</b>	<b>4</b>	<b>8</b>				<b>12</b>

\*\* Labor Market Area includes Oneida, Lewis, Herkimer, and Madison Counties

Provide Any Notes To Job Information Below

As indicated above CNYC Cardiology has recruited 3 physicians to the region in August of 2021 as part of the strategic growth. Due to that fact the practice anticipates hiring 3 LPN's and an Echocardiograph Technician to keep up with the demand. Just the same we have begun to look for another cardiac physician with a subspecialty of Electrophysiology. Currently the practice employees two of these sub specialist who are in very high demand and patients sometimes have to wait weeks or longer for a consultation.

The ASC will create 9-10 new positions including 2-3 management positions

Recruitment outside of the Labor Market Area will include physician and possibly C level positions.



SALARY AND BENEFITS	Retained Jobs		Created Jobs	
	Average Annual Salary <i>per employee</i>	Average Fringe Benefits (as a percentage of wages)	Average Annual Salary <i>per employee</i>	Average Fringe Benefits (as a percentage of wages)
Management	\$ 117,000	26 %	\$ 96,000	28 %
Administrative	\$ 39,111	31 %	\$ 55,120	31 %
MVHS/ASC Management	\$	%	\$ 155,772	25%
MVHS/ASC Administrative	\$ 99,672	25 %	\$ 57,227	25 %
Physicians / Advanced Providers	\$ 496,000	15 %	\$ 425,000	15 %
Overall Weighted Average	\$ 130,795	24 %	\$ 96,975	25 %

\*\*\* By statute, Agency staff must project the number of Full-Time Jobs that would be retained and created if the request for Financial Assistance is granted. "FTE" shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the company.

**11(e)** Please list NAICS codes for the jobs affiliated with this project:

621111 621493 621512 621511
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**Part VIII: Estimated Project Cost and Financing**

**12(a)** List the costs necessary for preparing the facility.

LAND Acquisition	\$	750,000 (Subject to adjustment)
Existing Building(s) ACQUISITION	\$	
Existing Building(s) RENOVATION	\$	
NEW Building(s) CONSTRUCTION	\$	30,868,891
Site preparation/parking lot construction	\$	1,611,800
Machinery & Equipment that is TAXABLE	\$	6,300,000
Machinery & Equipment that is TAX-EXEMPT	\$	
Furniture & Fixtures	\$	
Installation costs	\$	
Architectural & Engineering	\$	735,184
Legal Fees (applicant, IDA, bank, other counsel)	\$	100,000 (Subject to adjustment)
Financial (all costs related to project financing)*	\$	642,954
Permits (describe below)	\$	140,000
Other (describe below) ie: solar decommissioning expense)	\$	1,080,000

Other:	Cost:	Subtotal \$
1. Owner's Representative	\$ 400,000	42,228,829
2. Mortgage Broker Fee	\$ 170,000	
3. Owner's Builders Risk & Insurance	\$ 56,000	
4. Building Taxes During Construction	\$ 36,000	
5. Soft Cost Contingency/Leasing Com	\$ 290,000	
6. Miscellaneous Fees -	\$128,000	Agency Fee <sup>1</sup> \$ 130,572
		<b>Total Project Cost \$ 42,359,401</b>

\* **Bank fees, title insurance, appraisals, environmental reviews, etc.**

<sup>1</sup> **See Attached Fee Schedule (Page 24) for Agency Fee amount to be placed on this line.**

**Permit/Other Information**

Building Permit fees \$7/per 1,000 based on 20MM for the core & shell

**12(b)** Has the Applicant contacted any bank, financial institution or private investor with respect to financing the proposed project?  Yes  No **If Yes**, please provide details below.

Broker Agreement with Axiom Capital who is responsible for obtaining project financing for core and shell.  
Principal: Chuck Cronin 1.518.366.4000  
cmc@axiom-capital.com

**12(c)** Has the Applicant received a commitment letter for said financing? **If Yes**, please provide a copy along with this application.  Yes  No

**12(d) Sources of Funds for Project Costs**

Bank Financing: ----- \$ 29,350,000

Equity (excluding equity that is attributed to grants/tax credits) -- \$ 13,015,000

Tax Exempt Bond Issuance (if applicable) ----- \$ \_\_\_\_\_

Taxable Bond Issuance (if applicable) ----- \$ \_\_\_\_\_

Public Sources (Include sum total of all state and federal tax credits and grants) Break out individually below.----- \$ \_\_\_\_\_

Identify each Public state and federal grant/credit:

Comments:

Source	<input type="text"/>	\$	<input type="text"/>
Source	<input type="text"/>	\$	<input type="text"/>
Source	<input type="text"/>	\$	<input type="text"/>
Source	<input type="text"/>	\$	<input type="text"/>

CUB has made CFA application to NY Regional Economic Development Councils dated September 30, 2021. We were notified that we appear eligible to participate in the Commercial New Construction Program and persuing. Additionally will seek out new market credits.

**Total Sources of Funds for Project Costs: \$ 42,365,000**

**Part IX: Real Estate Taxes**

**13(a)** For each tax parcel which comprises the facility, and for which assistance is being sought, please provide the following information using figures from the most recent tax year. If an increase in the assessment is anticipated due to the proposed project, please indicate the new estimated assessment amount in the **POST- PROJECT** column. Attach copies of the most recent tax bills for all jurisdictions.

Tax Map Parcel #	Current Land Assessment	Current Building Assessment	Current Total Assessment	Current Total Taxes Amount (\$)	Estimated Post-Project Assessment
318.041-2-37					
318.041-2-38					
318.041-2-39					
318.041-2-40					

**13(b)** Will the entirety of each tax parcel be subject to the PILOT?  YES  NO

**13(c)** If the entirety of each parcel will not be subject to the PILOT, will the municipality require a subdivision?  YES  NO

**\*If a subdivision is required, it is the responsibility of the Applicant to complete subdivision approval prior to commencement of the PILOT Agreement, and to provide the Agency with the tax parcel number(s) assigned.**

**13(d)** Address of Receiver of Town and/or Village Taxes (include all jurisdictions):

1 Kennedy Plaza

Utica, NY 13502

**13(e)** Address of Receiver of School Taxes:

Utica City School District

**13(f)** Has the current property owner or user been granted an Ag-District exemption on the tax map parcel anytime during the past 4 years?

Yes  No

If **Yes** explain below.

**13(g)** Please consult with Agency staff to complete a Cost/Benefit Analysis form to attach to this Application.

Use space below for additional information

## NYS SEQRA Environmental Review

ALL SEQRA DOCUMENTATION CAN BE ACCESSED AT

<http://www.cityofutica.com/departments/urban-and-economic-development/planning/mvhs-seqra/index>

- The applicant must complete, sign and return to the IDA **either** the Short Form Environmental Assessment Form (SEAF) **or** the Full Environmental Assessment Form (FEAF). See the NYS DEC website for the most current versions of these documents.

<https://www.dec.ny.gov/permits/6191.html>

- To determine which EAF form is appropriate for the project, the applicant should consult with its engineer or legal counsel.
- It is the IDA's strong preference that the municipality that governs the jurisdiction where the project is located (e.g., a Planning Board, Zoning Board or other supervisory board) serve as lead agency for the SEQR review.
- In limited cases, the IDA will act as lead agency, but it may lead to additional cost to the applicant if a review is required to make a determination of environmental impact.
- If another public body is serving as lead agency for the SEQR review the applicant should provide the IDA with a signed Part 2 (and Part 3 if using the Long Form) and any minutes of meetings that detail the lead agency's determination.
- The IDA cannot grant any financial assistance until the SEQR review process is complete.

## **Agency Fee Schedule**

Commitment Fee: \$1,000 – due following the initial inducement but prior to scheduling of the public hearing; this amount is non-refundable if the applicant fails to close on the project before the IDA. Upon closing with the IDA this amount is applied to the closing fees.

Bond Fees:            ½ of 1% of total bond amount

### IDA Agency Fee: PILOT, Mortgage Recording Exemption, Sales Tax Exemption:

- Up to a \$1.0 Million project - \$5,000
- Above \$1.0 Million project up to \$10.0 Million project – ½ of 1% of total project cost.
- Above \$10.0 Million project – ½ of 1% of total project cost up to \$10.0 Million plus incremental increase of ¼ of 1% of total project above \$10.0 Million.
- Any previously induced solar or renewable energy projects that have not yet proceeded to a final authorizing resolution, and are asking for an increase in benefits, will be subject to an Agency fee of one and one-half times the Agency's normal fee.

### Transaction Counsel/Agency Counsel fee:

Set by Bond/Transaction Counsel based upon the nature and complexity of the transaction. This applies to bond and non-bond transactions (leasebacks, sale-leasebacks, etc).

Transaction Counsel/Agency Counsel fees for bond transactions typically will not exceed 2% of the bond amount or project costs. Transaction Counsel/Agency Counsel fees for a sale-leaseback/lease-leaseback transaction are typically \$8,500 to \$10,000 if no commercial financing is involved or \$10,000 to \$12,000 if commercial financing is involved. You will receive an engagement letter with a quote based upon the scope of your project.

### Annual Fee:

For the term in which the property remains in the IDA's name, an annual lease payment is due in the amount of \$750. The first payment is due at closing and subsequent payments are due each January 1. For annual fees not paid and delinquent, a late charge of \$50 per month will be levied until such time the fee plus late charges are paid.

### Other fees:

If Applicant requests the IDA enter into subsequent transactions following closing (i.e., a facility refinance), the IDA will charge a closing fee equal to 1/8 of one percent of the total reissuance, redemption, new or revised mortgage, refinancing, spreading agreement or other transaction with a minimum payment due of \$500. Applicant will also be responsible to pay any legal fees and any bank or financial institution fees the IDA incurs in connection with said transaction, throughout the term of the Agency's involvement with the facility.

## REPRESENTATIONS AND CERTIFICATION BY APPLICANT

The undersigned requests that this Application be submitted for review to the Oneida County Industrial Development Agency (the "Agency") and its Board of Directors.

Approval of the Application can be granted solely by this Agency's Board of Directors. The undersigned acknowledges that Applicant shall be responsible for all costs incurred by the Agency and its counsel in connection with the attendant negotiations whether or not the transaction is carried to a successful conclusion.

The Applicant further understands and agrees with the Agency as follows:

1. **Annual Sales Tax Filings.** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.
2. **Annual Employment, Tax Exemption & Bond Status Reports.** The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site as well as tax exemption benefits received with the action of the Agency. For Applicants not responding to the Agency's request for reports by the stated due date, a \$500 late fee will be charged to the Applicant for each 30-day period the report is late beyond the due date, up until the time the report is submitted. Failure to provide such reports as provided in the transaction documents will be an Event of Default under the Lease (or Leaseback) Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the Agency with an Annual Employment, Tax Exemption & Bond Status Report may be reported to Agency board members, said report being an agenda item subject to the Open Meetings Law.
3. **Absence of Conflict of Interest.** The Applicant has consulted the Agency website of the list of the Agency members, officers and employees of the Agency. No member, officer, or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein after described (if none, state "none"):
4. **Hold Harmless.** Applicant hereby releases the Agency and its members, officers, servants, agents and employees from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final

agreement with respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in the processing of the Application, including attorneys' fees, if any.

5. The Applicant acknowledges that the Agency has disclosed that the actions and activities of the Agency are subject to the Public Authorities Accountability Act signed into law January 13, 2006 as Chapter 766 of the 2005 Laws of the State of New York.
6. The Applicant acknowledges that the Agency is subject to New York State's Freedom of Information Law (FOIL). **Applicant understands that all Project information and records related to this application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.**
7. The Applicant acknowledges that it has been provided with a copy of the Agency's recapture policy (the "Recapture Policy"). The Applicant covenants and agrees that it fully understands that the Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
8. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

9. The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
10. The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
11. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.
12. The Applicant and the individual executing this Application on behalf of the Applicant acknowledge that the Agency will rely on the representations made herein when acting on this Application and hereby represent that the statements made herein do not contain any untrue statement of a material



fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

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

**David Quirello** \_\_\_\_\_, being first duly sworn, deposes and says:

1. That I am the CFO \_\_\_\_\_ (Corporate Office) of Central Utica Building, LLC/CNY Cardiology, PC (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

*David Quirello*

\_\_\_\_\_  
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury  
this \_\_\_ day of \_\_\_\_\_, 20\_\_ .

\_\_\_\_\_  
(Notary Public)

If the application has been completed by or in part by other than the person signing this application for the applicant please indicate who and in what capacity:

By: \_\_\_\_\_

Name: Bruce Smith

Title: Esquire

Date: 11/1/2021

\_\_\_\_\_  
Please submit the signed and notarized completed application along with payment of a non-refundable **\$500 Application Fee** and a **\$1,000 Commitment Fee** (will be applied to final closing costs) to the **Oneida County Industrial Development Agency**, 584 Phoenix Drive, Rome NY 13441-1405, **within 14 days prior to the OCIDA Board of Directors meeting at which you want the Application to be included on the Agenda**. Wire transfer and ACH payments are acceptable but all related fees incurred by the Agency are payable by the Applicant. It is advised that an electronic version of the application accompany the original application via hard copy or e-mail. An electronic version of the application must accompany the original application via physical media or e-mail.

Anthony J. Picente Jr.  
County Executive

Shawna M. Papale Executive  
Director/Secretary

Jennifer Waters  
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

**OCIDA**



584 Phoenix Rome, New York 13441-4105  
Ph: (315) 338-0393, fax (315) 338-5694  
info@mvedge.org www.oneidacountyida.org

David B. Grow  
Chair

L. Michael Fitzgerald  
Vice-Chair

Mary Faith Messenger  
Treasurer

Ferris Betrus

Kirk Hinman

Eugene Quadraro

Steven Zogby

## MEMORANDUM TO COMPANIES SALE-LEASEBACK TRANSACTIONS

1. When a Company decides that a sale-leaseback transaction may suit its particular needs, the first order of business is for the Company to complete an Application for Financial Assistance, together with an Environmental Impact Questionnaire, Cost/Benefit Analysis and Statement of the Project Applicant (referred to collectively as the "Application"). The Application is submitted to Agency Counsel for a formal decision as to whether or not the project qualifies as a "project," as defined by law.
2. No action can be taken until the Application is completed and submitted to the Agency and approved by Agency Counsel.
3. Upon completion of the Application and approval by Agency Counsel, the Agency will meet for the purpose of adopting an Inducement Resolution and reviewing the Environmental Impact Questionnaire, Cost/Benefit Analysis and Statement of the Project Applicant. At this time a Resolution may be adopted by the Agency concerning the environmental impact. **Please note that the Agency is subject to the Open Meetings Law, and all meetings will be open to the public, including news media.**
4. The Company is expected and encouraged to have its own counsel. The Company is also required to reimburse the Agency for all legal expenses incurred in furtherance of a proposed transaction, whether or not that transaction is completed. This includes all fees and disbursements of Agency Counsel.
5. The Company will be asked to sign an Inducement Agreement, which sets forth the terms of the proposed transaction and the obligations of the parties in furtherance of the same. The Company will also be asked to provide Agency Counsel with certain

information concerning the formation of the corporation or partnership, a survey of the property, title insurance, insurance certificates, etc. before the transaction can close. All matters in connection with the transfer of the real estate will be handled primarily by Company Counsel with the assistance of Agency Counsel.

6. A Public Hearing may be required in accordance with the New York State General Municipal Law, after which the Oneida County Executive must approve or disapprove the issue. Notice of the Public Hearing must be published at least thirty (30) days prior to the Hearing in the newspaper where the project is located. The highest elected official of each affected taxing jurisdiction must also receive thirty day written notice of the Hearing.

No financial benefits may be granted by the Agency to the Company until after the Public Hearing if required.

7. Agency Counsel has certain requirements as to those documents which must be included in the transaction and the content thereof, including but not limited to requiring environmental impact surveys, environmental indemnifications and general indemnifications.
8. The fee schedule is attached, covering the Agency fee, the Agency's work with respect to the project and the work of Agency Counsel.

The estimated fees for Agency Counsel may vary depending on the nature of the project. The initial fee quote assumes that the transaction closes within ninety (90) days from the date of the inducement, that there will be no unusual questions of law or prolonged negotiations regarding the documents, and that the involvement or assistance from other agencies will not require substantial modifications to the typical structure and documentation of similar transactions. The fee quote also assumes that Agency Counsel will not be called upon to coordinate with any lender, as the Agency is not issuing bonds. The fee quote assumes that closing will take place by mail and will not necessitate attending meetings with the Company or any lender.

9. Once the terms and conditions of the transaction are fairly well established, Agency Counsel prepares preliminary drafts of the financing documents and distributes them to all parties for review and comment. Comments accepted by all counsel will result in redrafting of documents. The parties establish a mutually agreeable closing date, and final documents for execution are prepared.

10. The Agency then conducts a meeting whereby it adopts an Authorizing Resolution, under which the Agency approves of the form of the documents and authorizes the Chairman to execute the same.
11. The closing takes place.
12. Some of the benefits available to a company under a sale-leaseback transaction are as follows:
  - ⇒ Exemption from New York State mortgage recording tax
  - ⇒ Exemption from New York State sales tax for materials used in construction
  - ⇒ Real property tax abatement on the value added to the project (for more information, please see the Uniform Tax Exemption Policy enclosed herewith)

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**MEMORANDUM TO APPLICANTS FINANCING AN IDA PROJECT  
THROUGH A COMMERCIAL LENDER**

We have found it helpful to outline at the onset of a transaction the basic structure of financing when an industrial development agency (“IDA”) has a fee or leasehold interest in a property and is party to a mortgage or other financing instrument. **Please give a copy of this memorandum to your lender as early in the financing process as possible.**

An IDA is party to a financing instrument purely as a conduit for financial assistance (in the case of granting exemptions from mortgage recording tax) and to grant its interest in the facility to the lender. To preserve the passive nature of its role, the IDA cannot assume any obligations or make any representations that a traditional Borrower would make to a lender. It has been our experience that the easiest way to accomplish this is to define the Borrower as the “Borrower,” define the IDA as the “Agency,” and only include the Agency in the granting clause and with respect to the assignment of rents, inasmuch as those are the only reasons that the Agency is party to this document.

Furthermore, because PILOT Payments are contractual obligations and are not given the same high priority as tax payments, we crafted some language that will restore the taxing jurisdictions to the same position they would have been but not for the IDA involvement in the project. While it is not disputed that is an equitable arrangement, certain lenders have expressed concern that, because the requirement to pay PILOT Payments is contained in a private contract, there is no prescribed process to avoid significant delinquencies as there is under a tax foreclosure. It has been our experience the easiest way to accomplish this is for a lender to escrow PILOT Payments so it has the assurance that payments are made in a timely manner. If a lender does not wish to escrow PILOT Payments, an alternative is for the IDA to record a PILOT Mortgage that would be given first priority over the lender’s mortgage, similar to the priority taxes have.

Below are certain provisions we require be incorporated into each financing document to which the IDA is a party (please modify capitalized terms accordingly):

**1. AGENCY PROVISIONS.**

a. Agency makes no covenants other than to mortgage all of its interest in the Premises excepting its Unassigned Rights (as said term is defined in the Leaseback Agreement).

b. **NO RECOURSE AGAINST AGENCY:** Lender agrees that Lender will not look to the Agency or any principal, member, director, officer or employee of the Agency with respect to the Indebtedness or any covenant, stipulation, promise, agreement or obligation contained in this Mortgage. In enforcing its rights and remedies under this Mortgage, Lender will look solely to the Premises for the payment of the Indebtedness and for the performance of the provisions hereof. Lender will not seek a deficiency or other money judgment against the Agency or any principal, member, director, officer or employee of the Agency and will not institute any separate action against the Agency by reason of any default which may occur in the performance of any of the terms and conditions of any documents evidencing the Indebtedness.

c. **HOLD HARMLESS:** Borrower and Lender agree that the Agency, its directors, members, officers, agents (except the Borrower) and employees shall not be liable for and Borrower agrees to defend, indemnify, release and hold the Agency, its directors, members, officers, agents (except the Borrower) and employees harmless from and against any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any

cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Facility or the Land or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, constructing, renovating, equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing, all claims arising from the breach by the Borrower of any of their respective covenants contained herein and all causes of action and attorneys' fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Agency, or any of its directors, members, agents (except the Borrower) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability.

d. **SPECIAL OBLIGATION.** The obligations of the Agency under the Mortgage and Financing Documents constitute a special obligation of the Agency, and all charges payable pursuant to or expenses or liabilities incurred thereunder shall be payable solely out of the revenues and other moneys of the Agency derived and to be derived from the leasing of the Facility, any sale or other disposition of the Equipment and as otherwise provided in the Authorizing Resolution, the Leaseback Agreement and the PILOT Agreement. Neither the members, officers, agents (except the Borrower) or employees of the Agency, nor any person executing the Mortgage and Financing Documents on behalf of the Agency, shall be liable personally or be subject to any personal liability or accountability by reason of the leasing, construction, renovation, equipping or operation of the Facility. The obligations of the Agency under the Financing Documents are not and shall not be an obligation of the State or any municipality of the State and neither the State nor any such municipality (including, without limitation, the County of Oneida), shall be liable thereon.

e. **SUBORDINATION TO PILOT AGREEMENT:** This Mortgage shall be subject and subordinate to any PILOT Agreement between the Borrower and the Agency with respect to the payments in lieu of taxes assessed or imposed upon the Premises, and by accepting this Mortgage, Lender acknowledges and agrees that such PILOT payments shall have the same force, priority and effect as a real property tax lien under New York State law against the Premises.

If a lender chooses to escrow PILOT Payments, we will incorporate the following provisions into the Leaseback (or Lease) Agreement:

Section 9.13 Subordination to Mortgage. This Leaseback Agreement and the rights of the Company and the Agency hereunder (other than with respect to the Unassigned Rights) are subject and subordinate to the Lien of the Mortgage, and all extensions, renewals or amendments thereof. The subordination of this Leaseback Agreement to the Mortgage shall be automatic, without execution of any further subordination agreement by the Company or the Agency. Nonetheless, if the Bank requires a further written subordination agreement, the Company and the Agency hereby agree to execute, acknowledge and deliver the same.

Section 9.14 Rights of Bank.

(a) Bank is hereby given the right by the Agency, in addition to any other rights herein granted, without any requirement to obtain the Agency's consent, to mortgage the mortgagors' respective interests in the Facility and, in the case of the Company, to assign and grant a security interest in the Company's rights under the Company Documents as collateral security for its obligations to the Bank, upon the condition that all rights acquired by Bank shall be subject to all rights and interests of the

Agency herein and in the other Company Documents, none of which covenants, conditions or restrictions is or shall be waived by the Agency by reason of this right to mortgage or grant a security interest in the Facility and the Company Documents, including Unassigned Rights.

(b) There shall be no renewal, cancellation, surrender, acceptance of surrender, material amendment or material modification of this Leaseback Agreement or any other Company Document by joint action of the Agency and the Company alone, without, in each case, the prior consent in writing of Bank, nor shall any merger result from the acquisition by, or devolution upon, any one entity of any fee and/or leasehold estates or other lesser estates in the Facility. Failure of the Bank to consent to a modification of this Leaseback Agreement by the Agency shall constitute an Event of Default.

(c) If the Agency serves a notice of default upon the Company, it shall also serve a copy of such notice upon Bank at the address set forth in Section 9.1.

(d) In the event of any default by the Company under this Leaseback Agreement or any other Company Document, the Bank shall have fifteen (15) days for a monetary default and thirty (30) days in the case of any other default, after notice to the Company and the Bank of such default to cure or to cause to be cured the default complained of and the Agency shall accept such performance by or at the instigation of Bank as if same had been done by the Company. The Agency in its sole discretion will determine whether such action by the Bank amounts to a cure.

(e) Except where Bank or its designee or nominee has succeeded to the interest of the Company in the Facility, no liability for any payments to be made pursuant to this Agreement or the performance of any of the Company's covenants and agreements under this Agreement shall attach to or be imposed upon the Bank, and if the Bank or its nominee or designee succeeds to the interest of the Company in the Project, all of the obligations and liabilities of the Bank or its nominee or designee shall be limited to such entity's interest in the Facility and shall cease and terminate upon assignment of this Leaseback Agreement by the Bank; provided however, that the Bank or its nominee or designee shall pay all delinquent PILOT Payments, if any, prior to said assignment.

(g) Notwithstanding any provision of this Leaseback Agreement or any other Company Document to the contrary, foreclosure of a mortgage or any sale of the Company's interest in this Leaseback Agreement and/or the Facility in connection with a foreclosure, whether by judicial proceedings, or any conveyance of the Company's interest in this Agreement and/or the Facility to Bank by virtue of or in lieu of foreclosure or other appropriate proceedings, or any conveyance of the Company's interest in this Leaseback Agreement and/or the Facility by Bank shall not require the consent or approval of the Agency and failure to obtain the Agency's consent shall not be a default or Event of Default hereunder.

**Oneida County Industrial Development Agency Recapture Policy  
(Effective April 25, 2017)**

**DEFINITIONS:**

“Company”	is the entity that applied for and received a benefit from the Agency.
“Agency”	is the Oneida County Industrial Development Agency.
“AER”	is the Company’s annual report of employment required to be provided to the Agency.
“Employment Obligation Term”	shall mean the period during which the Company is receiving a benefit in the form of lower payment in lieu of taxes than their real estate taxes would be.
“Employment Obligation”	shall mean the number of FTEs employed by the Company in Oneida County and selected by the Agency as the Company’s obligation.
“FTE”	shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the Company.
“Benefit”	shall mean the amount the Company saved by making payments in lieu of real property taxes in a particular year. For example, if a Company’s PILOT payment is equal to 75% of normal real property taxes, then the Company’s Benefit for that year would be an amount equal to 25% of normal real property taxes.
“Per Employee Amount”	shall mean an amount equal to the Benefit for the year after the year of the Shortfall divided by the “Employment Obligation”.
“Shortfall”	shall mean the difference between the Employment Obligation and the actual number of FTEs per the AER for the applicable year.
“Major Shortfall”	shall mean having FTEs that are less than 50% of the Employment Obligation.
“Minimum Standard”	shall mean a Company whose AER shows that they are short of meeting its Employment Obligation by 20%.
“Initial Benefit”	shall be the amount of savings the Company received through the Agency, in the form of Mortgage Recording Tax and New York State Sales Tax.
“Cure Period”	shall mean the period ending June 30 <sup>th</sup> of the year following the Major Shortfall.



1. **Job Creation and Retention Obligations.**

After the expiration of the Employment Obligation Term, the Company shall have no further obligation with respect to the Employment Obligation and shall not be liable for any of the payments described below.

The failure of the Company to satisfy the Employment Obligation can subject the Company to payments to the Agency. The Company shall be required to make payments if it fails to attain the Minimum Standard.

If the Company falls below the Minimum Standard, the Agency will notify the Company in writing of the Agency's intention to recapture Financial Assistance. The Company will have thirty (30) days to respond to the letter and may include a request to appear before the Agency. The Agency will determine, in its sole discretion, if a valid exemption exists and potentially reduce the remedies described below.

2. **Projects with less than Ten Years Employment Obligation Term.**

(a) Shortfall Payments.

- (1) If, during the first three (3) years of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall and then multiplied by (c) 1.5.
- (2) If, after the first (3) years, of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall.

(b) Major Shortfall Payment.

- (1) If a Company shall incur a Major Shortfall; then, the Company shall pay to the Agency as an additional one-time payment an amount as set forth in the schedule below (such payment shall be referred to as the "Major Shortfall Payment").

<b><u>Major Shortfall Occurs:</u></b>	<b><u>Percentage of Initial Benefit</u></b>
Year 1	100%
Year 2	80%
Year 3	60%
Year 4	40%
Any Subsequent Year	20%

- (2) Notwithstanding any of the foregoing, the Company shall not be liable for a Major Shortfall Payment unless the number of FTEs remains at less than 65% of the Employment Obligation at the expiration of a Cure Period. The Company shall have the opportunity at any time before the expiration of a Cure Period to provide additional information to the Agency regarding the Major Shortfall, and to request a waiver or amendment of this provision.

- (3) Notwithstanding any of the foregoing, a Major Shortfall shall not apply where the Shortfall is a result of a major casualty to or condemnation of the facility. In the event of such major casualty or condemnation, the Company shall have no obligation to pay the Major Shortfall Payment.
- (4) Qualification for a waiver of either (2) or (3) above shall be at the sole discretion of the Agency.

3. **Projects with Ten Years or Longer Employment Obligation Term.**

(a) Shortfall Payments.

- (1) If, during the first five (5) years of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall and then multiplied by (c) 1.5.
- (2) If, after the first five (5) years of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall.

(b) Major Shortfall Payment.

- (1) If a Company shall incur a Major Shortfall, then the Company shall pay to the Agency as an additional one-time payment an amount as set forth in the schedule below.

<b>Major Shortfall Occurs:</b>	<b>Percentage of Initial Benefit</b>
Year 1	100%
Year 2	90%
Year 3	80%
Year 4	70%
Year 5	60%
Year 6	50%
Year 7	45%
Year 8	40%
Year 9	35%
Year 10	30%

- (2) Notwithstanding any of the foregoing, the Company shall not be liable for a Major Shortfall Payment unless the number of FTEs remains at less than 65% of the Employment Obligation at the expiration of a Cure Period. The Company shall have the opportunity at any time before the expiration of a Cure Period to provide additional information to the Agency regarding the Major Shortfall, and to request a waiver or amendment of this provision.
- (3) Notwithstanding any of the foregoing, a Major Shortfall shall not apply where the Shortfall is as a result of a major casualty to or condemnation of the facility. In the event of such major casualty or condemnation, the Company shall have no obligation to pay the Major Shortfall Payment.

- (4) Qualification for a waiver of either (2) or (3) above shall be at the sole discretion of the Agency.

4. **Shift of Employment.** If the Shortfall or Major Shortfall is as a result of the Company shifting employment away from Oneida County, then the Agency will require the value of the Benefit and the Initial Benefit utilized to date to be repaid, with interest (determined as the New York State legal interest rate).

5. **Mandatory Recapture.** The Agency is mandated to recapture New York State sales tax benefits where:

- a. The Project is not entitled to receive those benefits.
- b. The exemptions exceed the amount authorized, or are claimed for unauthorized property or services.
- c. The Company fails to use property or services in the manner required by the Leaseback Agreement.

6. **Return of Recaptured Funds.** If the Agency recaptures Initial Benefits or Benefits from a Company, the Agency shall return the recaptured funds promptly to the affected taxing jurisdiction, unless otherwise agreed to by the taxing jurisdiction, in accordance with the General Municipal Law.

**The Agency shall have the right to reduce any payment required under this Policy, in extraordinary circumstances, in its sole discretion.**

## Oneida County Industrial Development Agency

### Insurance Requirements Under Leaseback Agreement

#### Section 3.4 Insurance Required.

At all times throughout the Lease Term, including, when indicated herein, during the Construction Period, the Company shall, at its sole cost and expense, maintain or cause to be maintained (and cause the Sublessees to maintain, where appropriate) insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in New York State. The Insurance carrier must have at least an A- (excellent) rating by A. M. Best. Company shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) **Property Insurance:** Insurance against loss or damage by fire, lightning and other casualties customarily insured against in an all risk policy with special form perils, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company. During the Construction Period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) **Workers' Compensation & Employers Liability Insurance** and **Disability Benefits Insurance** and each other form of insurance that the Company or any permitted sublessee is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company or any permitted sublessee who are located at or assigned to the Facility. Statutory New York limits shall apply to these policies. This coverage shall be in effect from and after the Completion Date or on such earlier date as any employees of the Company, any permitted sublessee, any contractor or subcontractor first occupy the Facility.

(c) **General Liability Insurance** protecting the Agency and the Company against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 5.2 hereof) and arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or occurrence with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. **Comprehensive Automobile Liability Insurance** including all owned, non-owned and hired autos with a limit of liability of not less than \$1,000,000 (combined single limit or equivalent for personal injury, including bodily injury or death, and property damage) protecting the Agency and the Company against any loss or liability or damage for personal injury, including bodily injury or death, or property damage, and **Umbrella Liability Insurance** of not less than \$5,000,000 per occurrence. This coverage shall also be in effect during the Construction Period.

(d) During the Construction Period (and for at least two years thereafter in the case of Products and Completed Operations as set forth below), the Company shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

(i) Workers' compensation & employer's liability and disability benefits insurance both with statutory limits in accordance with applicable law.

- (ii) Comprehensive general liability providing coverage for:
- Premises and Operations
  - Products and Completed Operations
  - Contractual Liability
  - Personal Injury Liability
  - Broad Form Property Damage  
(including completed operations)
  - Explosion Hazard
  - Collapse Hazard
  - Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. The annual aggregate shall apply per project. The contractor's general liability policy shall include coverage for the contractor and any of the additional insureds for any operations performed on residential projects including single or multi-family housing, residential condominiums, residential apartments and assisted living facilities.

(iii) Comprehensive auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(iv) Umbrella Liability with limits of \$5,000,000 per occurrence and \$5,000,000 annual aggregate.

(e) A policy or policies of flood insurance in the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Agency that no portion of the Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

### Section 3.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 3.4 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies evidencing the insurance required by Section 3.4 hereof shall provide for at least thirty (30) day's prior written notice of the restriction, cancellation or modification thereof to the Agency. The policies evidencing the insurance required by Section 3.4(c) hereof shall name the Agency as additional insured on a primary & non-contributory basis. All policies evidencing the insurance required by Sections 3.4(d)(ii) (iii) and (iv) shall name the Agency and Company as additional insured on a primary and non-contributory basis for the ongoing construction phase and for two years following completion during the completed operations phase. The policies under Section 3.4 (a) shall contain appropriate waivers of subrogation. The policies under Section 3.4 (b),(c),(d) shall contain waivers of subrogation in favor of the Agency and Company.

(b) All policies or certificates (or binders) of insurance required by Sections 3.4 hereof shall be submitted to the Agency on or before the Closing Date. Attached to the certificate of insurance shall be a copy of the additional insured endorsement from the Company's General Liability policy. The Company shall deliver to the Agency before the renewal date of each policy a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance of the types and in the amounts required by Section 3.4 hereof and complying with the additional requirements of Section 3.5(a) hereof. Prior to the expiration of each such policy, the Company shall furnish the Agency with evidence that such policy has been renewed or replaced or is no longer required by this Leaseback Agreement. The Company shall provide such further information with respect to the insurance coverage required by this Leaseback Agreement as the Agency may from time to time reasonably require.

Agency shall be named as additional insured as follows:

Oneida County Industrial Development Agency, ISAOA  
584 Phoenix Drive  
Rome, New York 13441

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  
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David C. Grow  
Chairman

L. Michael Fitzgerald  
Vice Chair

Mary Faith Messenger  
Treasurer

Ferris Betrus Jr.  
Kirk Hinman  
Eugene Quadraro  
Stephen Zogby

## **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY**

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**Adopted by the Oneida County Industrial Development Agency on  
January 28, 1994, amended on December 21, 1998 and April 30, 2009**

The Oneida County Industrial Development Agency (the "Agency") has adopted the following uniform tax exemption policies. These policies will be used for all projects for which the Agency may provide financial assistance, including bond (taxable and/or tax exempt) issuances and straight lease transactions. Final determinations regarding the extent to which financial assistance, if any, will be granted are solely within the discretion of the Agency.

### **I. Project Eligibility Criteria**

#### **(a) General Requirements**

The Agency considers the following general factors in determining whether a project is eligible for financial assistance:

- The nature of the proposed project (e.g., manufacturing, commercial, civic).
- The nature of the property before the project begins (e.g., vacant land, vacant buildings).
- The economic condition of the area at the time of the application.
- The extent to which a project will create or retain permanent, private sector jobs.
- The estimated value of tax exemptions to be provided.
- The impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- The impact of the proposed project on existing and proposed businesses and economic development projects in the County.
- The amount of private sector investment generated or likely to be generated by the proposed project.
- The likelihood of accomplishing the proposed project in a timely fashion.
- The effect of the proposed project upon the environment.

- The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
- The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the County of Oneida.

**(b) Industrial and Manufacturing Projects**

(1) Industrial and manufacturing projects generally qualify for financial assistance, subject to the eligibility criteria set forth in Part I (a) of this Policy.

(2) Due to the nature of the work, companies performing back-office operations that are regional or national in nature and a majority of which operations support activities outside of Oneida County will qualify as industrial and manufacturing. Research and development facilities and distribution centers that locate in Oneida County may also qualify as industrial and manufacturing.

**(c) Retail Projects**

The Agency will provide financial assistance to retail facilities only in accordance with the restrictions contained in New York State General Municipal Law Section 862(2), and subject to the eligibility criteria set forth in Part I (a) of this Policy. The Agency will also consider the competitive impact of the project.

Retail projects are generally not eligible for Agency assistance, with the following exceptions:

(i) Retail businesses that primarily serve customers located in Oneida County are generally not eligible for financial assistance unless located in a "highly distressed area" as defined in General Municipal Law §854(18), which includes projects located in an economic development zone or Empire Zone (as defined in New York State statute or regulation), or the project meets one of the other requirements of this paragraph (c);

(ii) Retail projects operated by not-for-profit corporations may be eligible for financial assistance;

(iii) Retail projects may be eligible for financial assistance provided an appropriate market analysis demonstrates that a majority of the project's customers are expected to come from outside of Oneida County and the project will not directly compete with existing businesses located in Oneida County; and

(iv) Retail businesses that primarily provide a product or a service that is otherwise not reasonably available in Oneida County may be eligible for financial assistance.

**(d) Other Non-Industrial/Commercial Projects**

Non-industrial/commercial projects may qualify for financial assistance at the discretion of the Agency, based upon its evaluation of the eligibility requirements set forth in Part I (a) of this Policy. The Agency confirms the following specific policies:



(i) Mixed or Multiple-Use Projects qualify for financial assistance, only with respect to that portion of the project that is used for purposes that qualify for financial assistance under this Policy.

(ii) Housing projects are generally not eligible for benefits, unless they

(a) service the elderly, low-income, assisted living or other groups with special needs; or

(b) promote employment opportunities and prevent economic deterioration, as confirmed by an appropriate market analysis, and such a determination is made by the Agency based upon all of the relevant facts.

## II. **Real Property Tax Abatements**

If the Agency determines that a project will receive real property tax abatements, a Payment-In-Lieu-Of-Tax Agreement (the "PILOT") will be negotiated with each project owner (the "Company") and will substantially follow the following guidelines with final determinations to be made by the Agency.

(i) Real Property Acquired by Company as part of Project. If the Company is acquiring real property as part of the Agency project, then the Agency's real property tax exemption will be available with respect to all real property acquired by the Company as part of the project and improvements thereto.

(ii) Substantial Improvements to Existing Real Property Owned by Company. If the Company is making "Substantial Improvements" (as defined below) to existing real property owned by the Company, then the Agency's real property tax exemption will apply to both the existing real property and the improvements.

(iii) Non-Substantial Improvements to Existing Real Property. If the improvements to existing real property owned by the Company are not Substantial Improvements, then the Agency's tax exemption shall apply only to the increase in assessment resulting from improvements constructed or installed as part of the project and the Company shall pay PILOT payments equal to the full amount of taxes on the existing real property.

The term "Substantial Improvements" means the value of the improvements constructed or installed as part of the project equals at least 50% of the value of the real property prior to construction or installation of the improvements, as determined by an independent valuation acceptable to the Agency.

### (a) **Industrial and Manufacturing Projects**

The Company shall pay a percentage of the taxes that would otherwise be payable if the project was not tax exempt, to each taxing jurisdiction in which the project is located, as follows:

1. 33 1/3% of such taxes through the fifth (5th) year of the exemption;

2. 66 2/3% of such taxes from the sixth (6th) through tenth (10th) year of the exemption;
3. 100% of such taxes after the tenth (10th) year of the exemption.

**(b) Retail Projects**

The Company shall pay a percentage of the taxes that would otherwise be payable if the project was not tax exempt, to each taxing jurisdiction in which the project is located, as follows:

1. 50% of such taxes through the second (2nd) year of the exemption;
2. 75% of such taxes from the third (3rd) through the fifth (5th) year of the exemption;
3. 100% of such taxes after the fifth (5th) year of the exemption.

**(c) Other Non-Industrial/Commercial Projects**

The Company shall pay a percentage of the taxes that would otherwise be payable if the project was not tax exempt, to each taxing jurisdiction in which the project is located, as follows:

1. 50% of such taxes through the second (2nd) year of the exemption.
2. 75% of such taxes from the third (3rd) through fifth (5th) year of the exemption.
3. 100% of such taxes after the fifth (5th) year of the exemption.

The Agency reserves the right to deviate from the real property tax abatement policy on a case by case basis at its sole discretion.

**III. Sales Tax Exemptions**

If, based on the eligibility criteria described in Part I of this Policy, the Agency determines a project is eligible for financial assistance, the Agency's financial assistance will include exemption from sales and use tax for costs of constructing, renovating and equipping the project.

Sales and use tax exemption, when available, will be authorized for the duration of the acquisition, construction and equipping of the project as described in the application for financial assistance. The Agency shall deliver a sales tax exemption letter which will expire one (1) year from the date of the project inducement. If construction, renovation or equipping is not complete at the expiration of the original sales tax exemption letter, upon request by the Company, the sales tax exemption letter may be extended at the discretion of the Agency.

All Companies receiving sales and use tax exemption benefits will be required to supply the Agency with a list of all contractors and sub-contractors that have been authorized to use the sales tax exemption letter. This list will be appended to the sales tax exemption letter by the Agency.

The Company must keep a record of the usage of the sales tax exemption letter, and must supply the Agency with the total amount of sales and use tax exemptions claimed by the project for each calendar year. The Company must submit this report to the Agency by February 1st of each year, until the exempt period comes to a conclusion. The company shall also file all reports as may be required by applicable law, including Form ST-340 which shall be filed with the New York State Department of Taxation and Finance.

The Agency reserves the right to deviate from the sales tax exemption policy on a case by case basis at its sole discretion.

#### **IV. Mortgage Recording Tax Exemption**

If, based on the project eligibility criteria described in Part I of this Policy, the Agency determines a project is eligible for financial assistance, the Agency will provide an exemption from New York State mortgage recording tax for the financing of project costs.

The Agency reserves the right to deviate from the mortgage recording tax exemption policy on a case by case basis at its sole discretion.

#### **V. Recapture**

Agency financial assistance is granted based upon the Company's representation that the project will create and/or maintain the employment levels described in its application for financial assistance (the "Employment Obligation"). If a Company fails to achieve and/or maintain its Employment Obligation, it could result in recapture of all or a portion of tax benefits granted by the Agency.

#### **VI. Deviations**

Deviations from this Policy shall be infrequent. The Agency reserves the right, at its sole discretion, to deviate from this Policy on a case by case basis. The Agency will provide written notice to the chief executive officer of each affected tax jurisdiction of any deviation from this Policy and will comply with the deviation requirements of the General Municipal Law.

April 2, 2018

Oneida County Industrial Development Agency (OCIDA)  
Uniform Tax Exemption Policy  
Business Relocation Assistance  
(Mohawk Valley Health Systems Project)

Purpose:

- The preference for all businesses displaced by the Mohawk Valley Health System (“MVHS”) Project is to have them remain inside the City of Utica. The OCIDA recognizes that this may not be possible for all those business and this policy is to provide financial assistance to help mitigate costs of relocation for “Eligible Businesses” that will be impacted by the MVHS project.
- In keeping with the broader purpose of OCIDA to promote, develop, encourage or assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of facilities in Oneida County and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of Oneida County, if an Eligible Business commits to invest in a Replacement Property (above relocation costs) and/or create additional jobs, OCIDA may be able to offer additional financial assistance to an Eligible Business under its Uniform Tax Exemption Policy.

Eligible Businesses:

- Must have operated a business in the “Project Zone” and had employees whose place of employment was in the Project Zone during each month of 2017. “Project Zone” refers to any real estate located within the perimeter shown on the attached map that the Eligible Business owned or leased (under a written lease agreement) for all of 2017.
- To be eligible for financial assistance, an Applicant must have received an offer letter from MVHS and entered into an agreement with MVHS for the sale of its property in furtherance of the MVHS project.
- Industrial, commercial, back-office businesses and certain qualifying retail businesses (retail businesses that are relocating to a “highly distressed area” qualify for financial assistance under Section 874 of the New York State General Municipal Law) are eligible.
- Final determination of eligibility under Article 18-A of the New York State General Municipal Law shall be made by the IDA.
- An Eligible Business must not have filed a challenge to the taking of its real estate by eminent domain as “Not in the Public Good.”
- The Eligible Business must be in negotiation for, under contract to, or be within 90 days of having acquired a replacement facility (the “Replacement Property”). The Replacement Property must be located in Oneida County.

Application:



- Financial assistance is conditioned upon Applicant maintaining, at a minimum, for ten years in the Replacement Property, the number of FTE employees that the Applicant employed in the “Project Zone” in 2017.
- Applicants will be subject to the recapture policy established by the IDA.
- Reduced benefits will apply if applicant no longer exclusively occupies the Replacement Property.

Deviations:

- The IDA reserves the right, at its sole discretion, to deviate from this Policy on a case-by-case basis, and will grant financial assistance to match a commitment by an Eligible Business to make an investment into and/or create employment at the Replacement Property.
- The IDA will provide written notice to each affected tax jurisdiction of any deviation from this Policy and will comply with the deviation requirement of the General Municipal Law.
- In addition to the other deviation criteria described in the IDA’s Uniform Tax Exemption Policy, the IDA will consider the following to determine when it is appropriate to deviate from this policy:
  - ❖ If the Applicant commits to not only retain, but also to create, a significant number of additional permanent, private employees (FTEs) as a result of acquiring the Replacement Property.
  - ❖ If the Applicant commits to make an investment into improving the Replacement Property that exceeds expenses of relocating to the Replacement Property.
  - ❖ Consideration will be given to limiting the Base Tax to an equivalent tax based on an assessment equalization of the arms-length purchase price of the Replacement Property.

Duration of Policy:

- Three years from the date of implementation.



**Legend**

Site Location

**Proposed Hospital Site Location**

1 inch = 120 feet

0 60 120 240 Feet



Date: January 11, 2018  
Date of Photography: April 2015

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**ATTACHMENT  
TO OCIDA APPLICATION FOR FINANCIAL ASSISTANCE**

**Part I: Applicant Information**

**Business Description**

**5(a) Explain your project in detail.**

Location.

Central Utica Building, LLC ("CUB") proposes to construct an approximately 70,000-80,000 square foot medical office building (the "MOB") at 601 State Street (corner of State and Columbia Streets) on approximately 2.9 acres of land adjacent to, and within the footprint of the new Wynn Hospital of the Mohawk Valley Health System (the "Wynn Hospital"). CUB seeks to locate the MOB and appurtenant facilities including parking areas on the following four parcels located in Utica and adjacent to the 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 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 ("MVHS") and will be ground-leased to CUB pursuant to a ground lease with a term of 99 years. To accommodate the MOB's parking requirements 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. Otherwise, the MOB project cannot go forward.

A copy of the concept plan showing the location of the MOB and parking areas and an excerpt from a tax map showing the proposed property assemblage are attached.

Principal Tenants. The principal tenants of the MOB and their proposed activities are as follows:

Central New York Cardiology, P.C.

Central New York Cardiology, P.C. ("CNYC") is the largest cardiology group in the region and provides general cardiology, interventional cardiology and electrophysiology services to the community drawing patients from within and outside Oneida County. CNYC cardiologists will perform interventional cardiology services at the Wynn Hospital and will take cardiology call and provide cardiology services to patients admitted to the Wynn Hospital. CNYC will occupy and build-out an approximately 20,000 square foot state-of-the-art medical office to include office space for 17 cardiologists and 11 advance practice providers. The build-out and equipping of the CNYC office is part of this Application. The office will also house sophisticated diagnostic testing capabilities including two nuclear cameras, five echocardiology labs and three vascular labs. CNYC further intends to acquire a cardiac PET scanner, which will be one of the few in the area.

CNYC has recently hired three cardiologists and support staff in anticipation of moving to a larger facility and is recruiting another cardiologist with a subspecialty of electrophysiology. The practice currently employs two electrophysiologists. There is a substantial need in the community for this subspecialty and recruiting a third electrophysiologist will significantly reduce patient wait times. CNYC's recent and planned hires are all based on the assumption that the practice will soon occupy a larger, more modern office with state-of-the-art diagnostic technologies.



CNYC currently occupies an approximately 18,000 square foot office, located on four fragmented floors in a building adjacent to St. Elizabeth's Hospital under a lease that will expire in May 2023. The space is too small, outdated and will no longer be located next to the hospital at which CNYC provides cardiology services and takes cardiology call.

#### Mohawk Valley ASC, LLC

Mohawk Valley ASC, LLC, a for-profit joint venture comprised of MVHS and local physicians, will build-out and operate an approximately 18,000 square foot, six operating room, Article 28 licensed, Medicare certified multi-specialty ambulatory surgery center. Currently, many types of surgeries and procedures previously performed in a hospital in-patient setting are migrating from hospitals to ambulatory surgery centers which provide significant cost savings to patients and payers and provide enhanced patient satisfaction.

#### Mohawk Valley Health System

MVHS will locate its Cardiac and Thoracic Surgery Group, Advanced Endoscopy clinic, Neuro-Interventional Surgery and Comprehensive Stroke Group and Imaging Center in the MOB.

Other Users. The balance of the MOB will be leased to other medical practices whose physicians practice in, and need access to the hospital and complementary non-medical uses.

### **Reasons for Project**

#### **6(a) Please explain in detail why you want to undertake this project.**

The principal tenants of the MOB—CNYC, a 30 provider cardiology medical group servicing Oneida and surrounding counties, a six OR Medicare-certified ambulatory surgery center owned by a local physician-hospital joint venture and new MVHS specialty medical clinics and ancillary services such as lab and diagnostic radiology—will significantly enhance and expand the delivery of health care services to the community. The location of the MOB adjacent to the Wynn Hospital is critical. By being located within the Wynn Hospital footprint the MOB will enable the development of a seamless and integrated health care delivery system among the hospital and providers located in the MOB thereby improving the quality and accessibility of health care services in the community.

In addition, there is not available ambulatory surgery center capacity in the area to accommodate the volumes and types of inpatient surgical procedures that should appropriately migrate to an ambulatory surgery center setting. Ambulatory surgical centers deliver high quality surgical services at a cost significantly lower (up to 60% less) than that charged by hospitals, providing savings to patients, insurers and taxpayers. Ambulatory surgery centers also provide efficiencies and are more patient-friendly and convenient for patients. Medicare and commercial payers are driving the migration of cases from the hospital to ambulatory surgery centers. In addition, and importantly, the ambulatory surgery center will provide services to the underserved populations of Oneida and surrounding counties.

### **Part V: Facility (Legal Information)**

**9(a)** Applicant is negotiating a 99 year ground lease for Parcels 318.041-2-37, 318.041-2-39 and 318.041-2-40 which are owned by Mohawk Valley Health System. To accommodate the MOB's parking requirements 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.

## Part V: Facility

### 9(f) Tenancies

#### *Proposed MOB Tenants*

<i>Tenant</i>	<i>Approx. SF to be Occupied*</i>	<i>Business</i>
Central New York Cardiology, P.C.	20,200	Cardiology medical practice
Mohawk Valley ASC, LLC	17,595	Six OR multi-specialty Article 28 ambulatory surgery center
MVHS Cardiac and Thoracic Surgery Group	1,500	Cardiothoracic surgeons
MVHS Advanced Endoscopy Clinic	1,000	Endoscopic surgeons
MVHS Neuro-Interventional Surgery and Comprehensive Stroke Group	1,000	Brain surgery/stroke care
MVHS Imaging Center	9,870	Diagnostic radiology including CT, MRI and X-Ray
MVHS Outpatient Lab/Patient Service Center	600	Laboratory services
Dr. Qandah	2,500	Medical office
Dr. Welcons	2,500	Medical office
Medical practices (TBD)	5,000	Medical office
Coffee shop/ATM, etc	1,000	

\* This represents the actual size of the space—actual square footage. Rentable square footage will be approximately 30% greater. The sum of all rentable square footage will equal the size of the MOB.

## Part VII: Employment Information

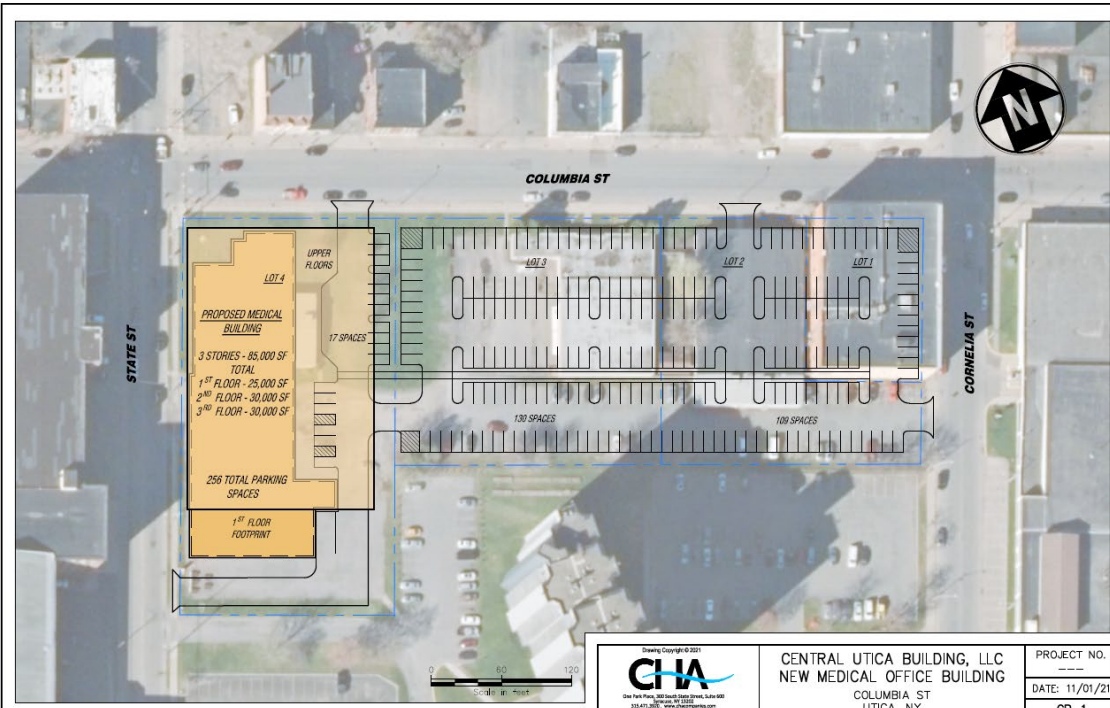
### **11(b) Will the project preserve permanent, private sector jobs or increase the overall number of permanent private sector jobs in the State of New York?**

The project will do both. Modern health care is now acknowledged as a major economic driver for both small and large communities. Health systems are a prime source of both high technology and high paying professionals and remains a major growth industry.

CNYC has recently hired three cardiologists and support staff in anticipation of moving to a larger facility and is recruiting another cardiologist with a subspecialty of electrophysiology. The practice currently employs two electrophysiologists. There is a substantial need in the community for this subspecialty and recruiting a third electrophysiologist will significantly reduce patient wait times. CNYC's recent and planned hires are all based on the assumption that the practice will soon occupy a larger, more modern office with state-of-the-art diagnostic technologies.

Mohawk Valley ASC, LLC plans to create 9-10 FTE opportunities and will shift up to 23 FTEs from inpatient hospital ORs to the new ambulatory surgery facility. In the absence of the this surgery

center, cases traditionally performed on an in-patient basis may migrate to other lower cost settings in Oneida County or elsewhere putting these MVHS OR staff members' jobs at risk.



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 Plot: 11/01/21 10:58:25 AM  
 User: j...  
 Title: CP-1

Drawing Copyright © 2021 <b>CIA</b> <small>Central Inland Architectural</small> One York Park, Suite 200, Utica, NY 13502 (315) 421-3322 <a href="http://www.ciaarchitect.com">www.ciaarchitect.com</a>	<b>CENTRAL UTICA BUILDING, LLC</b> <b>NEW MEDICAL OFFICE BUILDING</b> COLUMBIA ST UTICA, NY	PROJECT NO. --- DATE: 11/01/21 CP-1



318.041-2-36  
500 Columbia  
Sireel, LLC

318.041-2-35  
Zandro  
Alvarez

318.041-2-34  
Nathanael Paul

318.041-2-33  
Nathanael Paul M

318.041-2-32  
Nathanael  
Paul Morrissey

318.041-2-31  
Nathanael Paul Morrissey

318.041-2-30  
Nathanael Morrissey

318.041-2-29  
John Bosco  
House, Inc

318.041-2-28  
John Bosco  
House, Inc

318.041-2-27  
John Bosco  
House, Inc

318.041-2-26  
Turning  
Point Church

318.041-2-25  
Devin Garramone

318.041-2-22  
Devin Garramone

State St

Columbia St

318.041-2-37

318.041-2-38  
Jp O'brien  
Plbg & Htg

318.041-2-39  
Resource  
Center For

318.041-2-40  
Resource  
Center For

318.041-2-41

**ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**  
**COST/BENEFIT ANALYSIS**  
**Required by §859-a(3) of the**  
**New York General Municipal Law**

12-Nov-21

Name of Applicant:	Central Utica Building, LLC
	601 State Street, Utica
Description of Project:	70k-80k sf medical office building
	Construction & equipping
Name of All Sublessees or Other Occupants of Facility:	Central NY Cardiology, PC (20k-22k sf)
	Mohawk Valley ASC, LLC (18k sf)
	MVHS (14k-17k sf)

Principals or Parent of Applicant: CNYC Realty, LLC - 30% owner  
 5DOCS, LLC - 70%

Products or Services of Applicant to be produced or carried out at facility:

Estimated Date of Completion of Project: Jul-23

Type of Financing/ Structure:

<input type="checkbox"/>	Tax-Exempt Financing
<input type="checkbox"/>	Taxable Financing
<input checked="" type="checkbox"/>	Sale/ Leaseback
<input type="checkbox"/>	Other

Type of Benefits being Sought by Applicant:

<input type="checkbox"/>	Taxable Financing
<input type="checkbox"/>	Tax-Exempt Bonds
<input checked="" type="checkbox"/>	Sales Tax Exemption on Eligible Expenses Until Completion
<input checked="" type="checkbox"/>	Mortgage Recording Tax Abatement
<input type="checkbox"/>	Real Property Tax Abatement

**Project Costs**

Land Acquisition	\$ 750,000
Existing Building(s) ACQUISITION	\$ -
Existing Building(S) RENOVATION	\$ -
NEW Building(s) CONSTRUCTION	\$ 30,868,891
Installation Costs	\$ -
Site Preparation/Parking Lot Construction	\$ 1,611,800
Machinery & Equipment (other than furniture)	\$ 6,300,000
Furniture & Fixtures	\$ -
Architectural & Engineering	\$ 735,184
Legal Fees (applicant, IDA, bank, other counsel)	\$ 100,000
Financial (all costs related to project financing)	\$ 642,954
Permits	\$ 140,000
Other	\$ 1,080,000
Agency Fee	\$ 130,572
<b>TOTAL COST OF PROJECT</b>	<b>\$ 42,359,401</b>

**Assistance Provided by the Following:**

EDGE Loan:	
MVEDD Loan:	
Grants - Please indicate source & Amount:	\$ -
Other Loans - Please indicate source & Amount:	

**Company Information**

Existing Jobs	146.5	\$	130,795
Created Jobs FTE (over three years)	14.4	\$	96,975
Retained Jobs	146.5	\$	130,795

**Average Salary of these Positions**

**Earnings Information for Oneida County**

Average Salary of Direct Jobs for Applicant	\$	130,795
Average of County Indirect Jobs	\$	25,000
Average of Construction Jobs	\$	32,000

Note: \$1,000,000 in construction expenditures generates 15 person - years of employment  
Construction Person Years of Employment: **162**

**Calculation of Benefits (3 Year Period)**

	Total Earnings	Revenues
Direct Jobs		
Created	\$ 4,189,320	\$ 178,046
Existing	\$ 57,484,403	\$ 2,443,087
Indirect Jobs		
Created	\$ 2,700,000	\$ 114,750
Existing	\$ 27,468,750	\$ 1,167,422
Construction - only one year		
Person Years	\$ 5,196,911	\$ 220,869
<b>TOTALS Calculation of Benefits (3 Yr Period)</b>	<b>\$ 97,039,383</b>	<b>\$ 4,124,174</b>



**TAXABLE GOODS & SERVICES**

		Spending Rate	Expenditures	State & Local Sales Tax Revenues
Direct Jobs	Created	36%	\$ 1,508,155	\$ 147,045
	Existing	0.36	\$ 20,694,385	\$ 2,017,703
Indirect Jobs	Created	0.36	\$ 972,000	\$ 94,770
	Existing	0.36	\$ 9,888,750	\$ 964,153
Construction - only one year	Person Years	0.36	\$ 1,870,888	\$ 182,412
<b>TOTAL TAXABLE GOODS &amp; SERVICES</b>			<b>\$ 34,934,178</b>	<b>\$ 3,406,082</b>

Local (3 year) real property tax benefit (assuming 60% of jobs existing and created own a residence) with an average assessment of \$80,000 and the remainder of jobs existing created pay real property taxes through rent based on an average assessment per apartment of \$50,000.

		Municipality
Tax Rate for School District where facility is located:	27.209182	Utica 21-22
Tax Rate for Municipality where facility is located:	27.03189	Utica 2021
Tax Rate for County:	12.688297	Oneida 2021
Total Rate:	66.929369	
Real Property Taxes Paid:	<b>\$ 732,288</b>	

**COSTS: IDA BENEFITS**

Real Property Taxes Abatement	\$ -
Mortgage Tax Abated (.75%)	\$ 128,138
Estimated Sales Tax Abated During Construction Period (8.75%)	\$ 1,820,000
Total:	\$ 1,948,138

NOTE: If there is a tax-exempt financing of all or a portion of the project cost, there is a neutral cost/benefit because of lower interest rates by reason of exclusion of interest from gross income of bondholders for purposes of Federal and State income taxes. Taxable financing carries the same cost/benefit for State Income Tax purposes. Such cost/benefits cannot be quantified.