

Comment 243: Michael Galime, City of Utica Council President, Letter, 12/27/18:

Many outpatient facilities and medical offices have located and/or been built within the St. Luke's facility vicinity. This includes the Omni Surgical Center, as well as many offices within the business park. Will these locations need to relocate, and if so, will this cause unplanned financial burden on the overall medical community?

Response 243:

As noted in the CON application (DEIS Appendix A), the following MVHS controlled facilities and services will remain on the St. Luke's Campus: (1) 24 PM&R beds and other outpatient services at 1656 Champlin Avenue, Utica (Oneida County); (2) the laboratory PSC, primary care, obstetrics, and outpatient surgeon offices will continue to be located within a Physician Office Building. MVHS has no control over these other users and whether the owners of these other facilities choose to relocate is purely speculative.

Comment 244: Michael Galime, City of Utica Council President, Letter, 12/27/18:

A blanket statement has been made that there is a need to place medical care within reach of people in socio-economically stressed scenarios. The current proposal and scoping document proposes the construction of an acute care facility with surgical and emergency services. Placing a facility of this type in the urban core of the greater Utica area may create a situation that the care that is most needed by the population discussed as "in need," in the MVHS proposal and state legislation, will not be able to receive the clinical and chronic care at the proposed facility.

It is very possible and should be studied that spending 1 billion dollars rearranging the region around a single facility of this design is not addressing the actual needs of this community.

This consideration should be studied regardless of the chosen location.

Response 244:

The primary service area (PSA) for this Project is comprised of Oneida County. The two (2) largest cities in Oneida County are Utica (with a 2015 population of 61,628 (most recent data available)) and Rome (with a 2015 population of about 32,916 (most recent data available)). MVHS's patients generally come from 45 towns and villages covering 1,257 square miles surrounding the facilities. Approximately two-thirds (67%) of the County's population resides in urban/suburban areas, while the remaining one-third (33%) resides in rural areas.

With nearly 18.0% of the population 65 years and older, Oneida County had a median age of 41.1 in 2016. Furthermore, in 2016, the race/ethnicity of Oneida County was broken down as follows: Hispanic (5.5%); non-Hispanic White (82.2%); non-Hispanic African-American (5.2%); non-Hispanic Asian (4.2%); and non-Hispanic other minorities (2.9%). Furthermore, 17.1 % of the population is living at or below the Federal Poverty Level (FPL), demonstrating the high poverty that exists in the region. In the City of Utica, 32.2% of the population is living at or below the FPL.

Oneida County is home to one of the largest refugee resettlement agencies in the country, Mohawk Valley Resource Center for Refugees (MVRRCR). Since the 1980s, MVRRCR has resettled more than 15,000 individuals in Utica, with ethnicities and nationalities including Vietnamese, Russian, Bosnian, Somali (Bantu), Burmese and Nepali. Importantly, foreign-born residents constituted 18.9% of the Utica population in 2015. Furthermore, about 27.7% of Utica residents aged five (5) and older spoke a language other than English in 2015.

The new hospital campus in downtown Utica will improve access for all area residents, including this large refugee population. MVHS currently spends more than \$800,000 annually to provide language assistance associated with its healthcare services. In particular, the hospital employs four (4) program specialists/interpreters and 22 per-diem interpreters, and it works with outside agencies to cover 30 different languages and dialects. Lastly, within the rural areas of Oneida County, there are also growing numbers of Amish and Mennonite residents.



Relative to the PQI measures of the NYSDOH, geographic areas that need improved access to care in Oneida County include Utica, Rome and Waterville. These areas have total PQI rates that are up to 170% greater than expected. Residents of Oneida County also experience poor health outcomes for a number of conditions, including cardiovascular disease, diseases of the heart, coronary heart disease, acute myocardial infarction (heart attack), congestive heart failure, cerebrovascular disease (stroke), hypertension, chronic kidney disease, diabetes, chronic lower respiratory disease, asthma and cancer.

MVHS is actively involved in the New York State Delivery System Reform Incentive Payment (DSRIP) program, and this proposed Project aligns with the goals and system transformation work being done through the program. The overall Project supports the development of an integrated delivery system that reduces excess capacity, eliminates the duplication of services and focuses on patient-centered care while improving patient outcomes and reducing costs. The operational efficiencies gained through the new hospital, in concert with DSRIP project implementation, will enhance care coordination and allow resources to be repurposed to better support outpatient models of care and to implement a population health approach for Oneida County.

The proposed new hospital Project provides the physical infrastructure that removes many of the barriers and challenges currently impeding improvements to these measures. The overall Project aligns with DSRIP objectives because it allows for enhanced access to high quality primary care, reduced care gaps and inefficiencies and alignment with payment reform focused on outcomes and population health management. Specific DSRIP performance measures aligned with the Project are as follows:

- Increasing the number of practices with NCQA Level 3 Patient-Centered Medical Home (PCMH) recognition
- Implementation of DSRIP Project 2.a.i. – Create an Integrated Delivery System that supports the County patients receiving the right care, at the right time and in the right setting. This involves enhancements to primary care, communication and access to health information. MVHS is working with CNYCC to implement a population health management system as a tool for improving communication, efficiency and closing gaps in care for County residents.
- Reducing ED visits for ambulatory sensitive conditions: Implementation of DSRIP Project 2.b.iii – Emergency Department Care Triage for At-Risk Populations provides for a patient navigation program in the proposed Emergency Department to coach patients regarding appropriate ED utilization, address social needs and connect with primary care.
- Reducing hospital admissions for super-utilizers: Implementation of DSRIP Project 2.b.iv – Care Transitions Intervention Model to Reduce 30 Day Readmissions. A key element of this Project involves enhancements to care planning and coordination among the healthcare team for those patients most at risk for readmission.
- Integration of behavioral health into the primary care setting: Implementation of DSRIP Project 3.a.i – Integration of Primary Care and Behavioral Health Services enhances a behavioral health network and improves access to behavioral health services for the County.
- Increasing referrals to Health Home: Implementation of DSRIP Project 2.a.ii – DSRIP Care Management will enhance care coordination and management, supporting appropriate utilization of healthcare services

Comment 245: Michael Galime, City of Utica Council President, Letter, 12/27/18:

Financial Impact to City of Utica. The financial impact to the City of Utica is not understood at this point. There are unknown and unspecified costs regarding infrastructure, facility relocations, parking garage costs, and the introduction of a large tax abatement. A long term (5 year, 10 year, and 15 year) outlook should be analyzed and considered. Above and beyond property tax, there will be a loss in sales tax, and increase in services, that should be studied and considered adverse, due to the impact to the City. All accountable costs, revenue loss, revenue gains, and expenses must be considered.

Financial Impact to City of Utica School District. If the downtown location is chosen, the Utica School District will be losing tax revenue funding.

Financial Impact to County. If the downtown location is chosen, the Oneida County will be losing tax revenue funding.

Financial Impact to City of Utica Library. If the downtown location is chosen, the Utica Library will be losing tax revenue funding.

Impact of loss of Central Business District. The direct cost to the City of Utica in aiding MVHS to build a downtown facility may be greater than the cost to reinvigorate the current tax paying business district through use of the same street scape and façade improvements proven to work on Genesee St and repairing and reutilizing our current parking structures for Hotel and Auditorium needs.

The indirect cost of spending money to reduce the ability to generate tax revenue will spread the direct costs of the MVHS aid from the City and County across the remaining tax paying entities left in the City of Utica, while resulting in a permanent tax abated installation.

Response 245:

See Response 193. Based on the City’s assessment rolls, the taxable assessed value for the properties to be acquired for the IHC is \$4,320,458. Some of the properties are already exempt or in arrears on their tax payments. Others are vacant or dilapidated resulting in low assessments for the entire area. Moreover, there has been no new construction or significant expansions in the Project footprint for more than 20-years. The Project area has been depressed for years and has not been redeveloped despite programs such as the Urban Renewal Plan, the Gateway Canal Overlay District, the 2011 Master Plan, and development in nearby areas of Bagg’s Square, Harbor Point, and Varick Street.

Medical office space near hospital centers typical sells for \$100 to \$150 per square foot. Accordingly, assuming that the Project adds 80,000 square feet of taxable medical office space, the Project is projected to be assessed at \$8,000,000 to \$12,000,000. As a result, the IHC would likely result in an annual increase in property tax payments to all taxing jurisdictions as set forth in the chart below. The IHC is also projected to increase sales tax revenues; approximately \$106,500 in additional annual sales tax revenues during construction and approximately \$191,500 in additional annual sales tax revenues following construction.

Table 4. Estimated Revenues

Estimated Revenues	Municipality	Existing AV	Existing Taxes	Description	Amount/year
Medical Office Building	City of Utica	\$4,320,458	\$115,000	80,000 GSF	\$8M to \$12M AV \$27.091643/\$1,000 \$ 216,733 to \$325,099
	County	\$4,320,458	\$51,919		\$8M to \$12M AV \$12.017093/\$1,000 \$96,137 to \$144,205
	School District	\$4,320,458	\$116,511		\$8M to \$12M AV \$26.967227/\$1,000 \$215,738 to \$323,607
	Library	\$4,320,458	\$3,045		\$8M to \$12M AV \$0.704759/\$1,000 \$5,638 to \$8,457
Taxable Sales – Construction Period (3 Yrs.)	City			\$15 M to \$17 M over 3 years	Midpoint: \$16 M used, which generates \$320,000 to City of Utica over 3 Yrs. \$ 106,667



Estimated Revenues	Municipality	Existing AV	Existing Taxes	Description	Amount/year
Taxable Sales –3,500 employees downtown Utica (post construction)	City		3,500	\$9,581,250 in annualized new spending within Utica X 2% generates \$191,625 in sales tax for Utica.	\$ 191,625
Taxable Sales – Construction Period (3 Yrs.)	County				
Taxable Sales –3,500 employees downtown Utica (post construction)	County				

Moreover, the Project is expected to create approximately 1,050 jobs. Goods and services purchased by construction workers will create additional economic value for the community. An additional post-siting analysis was conducted by Turner Construction to estimate construction phase local tax benefits (i.e., “traveling manpower” tax generation from construction workers [hotels and restaurants]). It is estimated that construction workers will spend \$15,000,000 to \$17,000,000 in hotels, restaurants and other purchases over the course of the construction period. Based on Oneida County’s tax structure: 8.75% sales tax (4% to NYS; 4.75% to Oneida County) and an additional 2% County tax on hotel stays, the County gets 6.75% on all hotel and 4.75% on restaurant, gas, food and other sales. This equates to approximately \$811,000 in estimated “traveling manpower” local taxes generated during the construction phase (Turner 2018). See Response 201.

The IHC is not anticipated to require additional services and will not require additional expenditures by the City to cover infrastructure improvements. Any expenses associated with the parking garage would likely still be necessary in connection with improvements to the NEXUS center.

Comment 246: Michael Galime, City of Utica Council President, Letter, 12/27/18:

Affected Property Owners and Businesses. At this time there have been adverse negative effects imposed on the central business district. MVEdge has stated multiple times that the district could have kept moving forward during the #MVHSDowntown campaign, however, in the case of the new Enterprise Car location, the city, property owners, and Enterprise were all sent correspondence from MVEdge to not develop their property because it will be taken.

This correspondence was prior to the filing of the Project with the OCLDC.

Moving forward how will the affected businesses be dealt with. There has not been, to date, clear discussion based on this. The central business district is home to many tax paying businesses as well as not-for-profit



community support businesses. The current filings from the OCLDC are stating that PILOT agreements and possible relocation costs will be dependent on job creation.

The potential negative impact is that these businesses themselves are placed in a position of stagnancy and financial impact that they would have otherwise not had to deal with if this proposal was not floated for multiple years prior to its filing.

Response 246:

See Responses 32, 193, 194, 195 and 243 for a discussion on the blighted condition of the area and the nature and types of businesses located within the Project footprint. See Response 241 for a discussion on MVHS negotiations with existing owners.

Comment 247: Michael Galime, City of Utica Council President, Letter, 12/27/18:

Downtown Utica property is becoming a premium. Reducing the available land will increase cost and sellable value, creating a situation where current business and property owners may either not be able to expand in place, or be priced out of their current options. This should be considered part of the scoping of adverse effects.

Response 247:

This is a purely economic impact that is not required to be evaluated in an EIS. See *Bell Atlantic Mobile of Rochester L.P. v. Town of Irondequoit*, 848 F. Supp. 2d 391, 400 (WDNY 2012) (speculative environmental loss such as a concern for property values is not an environmental factor under SEQRA); *Nash Metalware Co. v. Council of the City of New York*, 14 Misc.3d 1211(A); 2006 N.Y. Misc. LEXIS 3940 (Sup. Ct. NY Co. 2006 (potential impacts from relocation of businesses not relevant when owner is vacating under terms to which it consents). However, increased property values are an economic benefit to a community and are viewed as a positive impact.

Comment 248: Michael Galime, City of Utica Council President, Letter, 12/27/18:

At this point the scoping document and proposed project filed with the Oneida County Local Development Corporation does not demonstrate the financial ability to complete the proposed project. There is a potential situation where MVHS may not be able to fund the project fully and may turn to tax payer funding to bail out overruns.

Response 248:

This is a purely economic impact that is not relevant under SEQRA. A Lead Agency is not required to take a hard look at the economic feasibility of a project, particularly when public funding is involved. See *Kirquel Dev., Ltd. v. Planning Bd. of Town of Cortlandt*, 96 A.D.3d 754, 755 (2d Dept. 2012); *Tudor City Ass'n v. City of New York*, 225 A.D.2d 367 (1st Dept. 1996).

Comment 249: Michael Galime, City of Utica Council President, Letter, 12/27/18:

The current statement from MVHS CEO Scott Perra, when asked how the project will be dealt with if over budget, was that the project will not go over budget. This is not an adequate answer for a project of any scale.

Response 249:

See Response 248.

Comment 250: Michael Galime, City of Utica Council President, Letter, 12/27/18:

The MVHS proposal review should not be based on other incomplete government proposals which present similar issues in site assemblage and private property acquisition.

Response 250:

This comment is not clear as to what other incomplete government proposals are being referenced. As a result, no response is required.

Comment 251: Michael Galime, City of Utica Council President, Letter, 12/27/18:

If this project is approved, it is imperative that the planning board, acting as lead agency, prove that this proposal can be completed within the scope of the current filings.

Response 251:

See Response 248.

Comment 252: Stephen N. Keblish, Jr., Resident (Utica), Email, 12/27/18:

Relocated businesses, facilities, organizations, and activities – The proposed site for the IHC is a city downtown and encompasses 25 acres. A necessary and known consequence of the proposed action is to displace or relocate (in some cases forcibly) many community assets, however planned and speculated relocations are not evaluated by the DEIS.

Response 252:

See Responses 26, 32, 193, 194, 195 and 243.

Comment 253: Stephen N. Keblish, Jr., Resident (Utica), Email, 12/27/18:

Substantive Compliance: In order to comply with SEQRA, a hard look must be given to potential negative impacts. In too many areas of concerns, the DEIS overlooks negative effects and instead focuses on potential benefits:

- Identified negative/adverse impacts In several instances, the DEIS mentions possible negative consequences, but does not offer discussion, study, or analysis of the likelihood, magnitude, or duration of those impacts:
 - » Outdoor Storage of Materials ([DEIS] Page 43)
 - » Bulk Storage of Oil/Fuel and/or Chemicals ([DEIS] Page 46)
 - » Growth Inducing Aspects ([DEIS] Page 113)

Response 253:

See Response 227.

Comment 254: Stephen N. Keblish, Jr., Resident (Utica), Email, 12/27/18:

Minimizing negative/adverse impacts In order to avoid addressing or legitimizing negative consequences of the proposed action, the DEIS overlooks or minimizes adverse consequences rather than a straightforward approach demanded by SEQRA:

- In discussing Community Character, negative/adverse impacts are mixed in with speculative benefits to produce mixed analysis
- In discussing Growth Inducing Aspects, a consideration of negative/adverse impacts are replaced with a description of “potential additional development, which the proposed action may support or encourage”

- Negative impacts are relegated to footnotes, rather than fully addressing them. [Footnote 120: “The MVHS analysis also recognized that the project would result in a loss of City property tax income (estimated to be approximately \$115,300/year).”]

Response 254:

It was the intention of the Legislature that the protection and enhancement of the environment, human and community resources should be given appropriate weight with social and economic considerations in determining public policy, and that those factors be considered together in reaching decisions on proposed activities. Accordingly, it is the intention of the SEQRA implementing regulations (6 NYCRR Part 617) that a suitable balance of social, economic and environmental factors be incorporated into the planning and decision-making processes of State, regional and local agencies. It is not the intention of SEQRA that environmental factors be the sole consideration in decision-making. While the main purpose of identifying and mitigating impacts is to limit or control adverse impacts, it is relevant to also identify likely beneficial effects of the proposed action. These considerations will be used by decision makers in balancing positive and negative effects in the Findings Statement. Accordingly, it is completely appropriate, and even expected, to consider both positive and negative impacts of a project.

In regard to community character, the Commenter is referred to Responses 32, 47, 60 and 144.

The purpose of the discussion of growth inducement in the EIS is to enable Involved Agencies to reach findings concerning both positive and negative effects of induced growth in the area of the proposed project. Growth in and of itself is not always negative. If the growth induced by a project is consistent with the applicable zoning and the community’s comprehensive plan, it may be viewed as a positive impact that has been planned for and beneficial to the community. Here, the Project Site is located in a HUB zone; is in a former Empire Zone; is designated as a potential EJ area; and in the Urban Renewal Plan Utica Downtown Development Project Area. Per the City’s Master Plan, the City’s urban landscape is characterized by vacant or significantly under-utilized industrial buildings and many of its neighborhoods are either deteriorating or continuing to decline. The Urban Renewal Plan for the area encompassing the Project Site states that its purpose is “to revitalize this area of downtown.” Per the Urban Renewal Plan, the “economic and physical revitalization of the project area is a critical public purpose for the community because of the area’s location.” Eight (8) of the properties are already owned by the City’s URA, but have sat vacant and undeveloped for years. The Urban Renewal Plan authorizes the City to acquire properties by *eminent domain* for the purpose of economic redevelopment. Accordingly, this area has been targeted by the City of Utica for economic redevelopment for years making it a prime location for consideration by MVHS. Accordingly, growth is consistent with the community’s plan for the area and would be a positive impact.

The temporary loss of property tax income is a purely economic impact that is not relevant under SEQRA, which is why it appears in a footnote in the DEIS. See *Bell Atlantic Mobile of Rochester L.P. v. Town of Irondequoit*, 848 F. Supp. 2d 391, 400 (WDNY 2012) (speculative environmental loss such as a concern for property values is not an environmental factor under SEQRA). Moreover, once the Medical Office Building is constructed, there will be an increase in property tax revenue to all the taxing jurisdictions. See Responses 194 and 227.

Comment 255: Stephen N. Keblish, Jr., Resident (Utica), Email, 12/27/18:

Missing EIS elements required by SEQRA:

- “A concise description of the proposed action, its purpose, public need and benefits, including social and economic considerations.” In order to be compliant, the DEIS should address issues in a holistic approach, contemplating impacts beyond the confines of narrow definitions and in conjunction with other impacts.
 - » The DEIS admittedly ignores social and economic considerations (“Potential effects that a proposed project may have in drawing customers and profits away from established enterprises, possible reduction of property values in a community, or potential economic disadvantage caused by competition

or speculative economic loss, are not environmental factors and will not be addressed in the DEIS.” Page 102)

- “A concise description of the environmental setting of the areas to be affected, sufficient to understand the impacts of the proposed action and alternatives.” The DEIS offers only a very narrow understanding of impacts and alternatives.
 - » The DEIS paints an incomplete picture of the areas impacted by the project. While it does discuss potential implications to the FSLC and SEMC, it does not indicate the magnitude, likelihood, or duration of any impacts known to be caused by the closure of the hospital facilities. It does not describe the impact of having to relocate the Utica City Police Maintenance Facility, a known consequence of this project. 6 It does not describe the impacts of relocating businesses displaced by the project, another known consequence. Does not discuss the impact on the existing energy microgrid located at the St. Campus (AKA the Burrstone Microgrid).
 - » No descriptions of impacts from alternative sites are offered, merely a discussion about what was offered for hospital-programming analysis in the site selection process.

Response 255:

The EIS contains a concise description of the proposed Project, including the public need and benefits, as well as social and economic considerations. The specific economic impacts referenced in the comment are speculative and/or relate to economic competition. These types of economic impacts are not required to be considered in an EIS. See *Bell Atlantic Mobile of Rochester L.P. v. Town of Irondequoit*, 848 F. Supp. 2d 391, 400 (WDNY 2012) (speculative environmental loss such as a concern for property values is not an environmental factor under SEQRA).

SEQRA requires that an EIS contain an analysis of alternatives to enable the Lead Agency to determine if there is a reasonable, feasible alternative that would allow some or all of the adverse impacts to be avoided while generally satisfying the applicant’s goals (see SEQRA Handbook, C. 22). As the regulatory language indicates, the “objectives of a private project sponsor are important in determining what alternatives should be considered in an environmental impact statement.” See *Crossroads Ventures*, 2006 N.Y. ENV LEXIS 88, at *96. Moreover, it is not necessary for any applicant to conduct a full blown SEQRA review of each site before selecting one. See *Palczynski*, 55 AD3d 1242. See Response 26.

The DEIS did consider the potential impacts that might occur as a result of the closure of St. Luke’s and SEMC. See Response 177 for additional discussion.

See Response 4 for additional discussion with respect to police facilities.

See Responses 32, 194 and 241 with respect to the nature of existing businesses and efforts to relocate them. Accordingly, there is no basis for the comment that there will be a 90% closure rate of the existing businesses.

See Response 115 with respect to the co-generation plant.

Comment 256: Stephen N. Keblish, Jr. Resident (Utica). Email. 12/27/18:

Unsubstantiated claims.

- “The magnitude of the acquisition of 25± acres will be large, but most of the impacts are expected to be beneficial because it will better position the hospital to serve the largest and most diverse population in Oneida County, as well as creating the potential for secondary economic development opportunities.” Page 7, Project Description, under “Property Acquisition” ([DEIS] PDF page 24.)
 - » This section makes several speculative claims about unspecified economic development in unspecified locations. What kind of development, where?

- » The site selection study awarded points to downtown for not being near a residential area, but now claims to be better positioned to serve the local population. These contradictory claims need to be sorted out or omitted.
- “Consideration was also given to additional investment potential based on the site location and the project’s relation to broader downtown revitalization, neighborhood revitalization, and/or preservation features. These same interests could also result in increased fundraising for the project (in addition to the State designated allotment of \$300 million).” ([DEIS] PDF page 47.)
 - » There is no evidence that fundraising has increased because of the location.
 - » Creating additional burdens on the public, especially to preserve the financial feasibility of this action, should not be characterized as incentives or benefits.
- “Based on a review of available information, all three sites are consistent with a master plan and only the Downtown and NYS Psych Center sites are near proposed BOAs.”
 - » Utica Master Plan calls for development goals quite at odds with the design, requirements, and impacts of the hospital as proposed for downtown Utica.
 - » Only the Psych Center achieves Utica Master Plan and Smart Growth principles. (See Smart Growth Matrix below.)
- “The next sub-criterion examined the location of each site in relation to the surrounding neighborhood. The Downtown site was identified as the only site not situated near a residential neighborhood, whereas St. Luke’s and the NYS Psych Center sites are located near neighborhoods, although creation of a buffer is possible.” ([DEIS] Page 48)
 - » Downtown is near three apartment complexes and is the only site that currently contains residential space.
- “The final sub-criterion examined sustainability features as it relates to the ability to provide an energy microgrid and if it can be considered an urban infill project (vs. greenfield development). The Central Utility Building at the Downtown and NYS Psych Center sites have the potential to serve as microgrid power sources. CHP’s are considered a more sustainable option for generating electric power versus relying 100% on the electrical grid. CHP’s are more energy efficient and rely on cleaner sources (*i.e.*, gas turbines) reducing emissions of carbon dioxide and other air pollutants in comparison to regional power stations.” ([DEIS] Page 48)
 - » The Burrstone Microgrid is already built and operating the St. Luke s site and is providing clean energy to the campus as well as Utica College.
 - » There is an additional, related unsubstantiated claim here: “Thirdly, a new, consolidated site will enable MVHS to reduce infrastructure and energy cost/consumption for decades to come.”
- “While all three site options would likely comply with the State’s Smart Growth Development Policy, the Downtown and the NYS Psych Center sites would be viewed more favorably if state funds are pursued to assist with the development of either of these urban sites.” ([DEIS] Page 48)
 - » Downtown site promotes sprawl by 1) Reducing Density 2) Increasing reliance on cars 3) Not pedestrian and bike friendly in design 4) Does not promote historic preservation and reuse.

Response 256:

With respect to “economic development,” see Responses 26, 32, 33, 194 and 196.

With respect to “be better positioned to serve the target population,” see Responses 32, 33 and 230.

With respect to “financial feasibility,” see Response 215.

With respect to “the City’s Master Plan,” see Responses 32, 47, 60 and 144.

With respect to “Smart Growth,” see Responses 86 and 234.

With respect to “proximity to residential neighborhoods,” see Response 22.

With respect to “the Burrstone Cogeneration Plant,” see Responses 33 and 115.

With respect to “infrastructure and energy costs,” see Responses 33, 114, 115, 118 and 123.

With respect to “pedestrian friendly design,” see Responses 47, 60 and 86.

With respect to “historic preservation,” see Response 63.

Comment 257: Joseph P. Caruso, City of Utica Planning Board, Email, 12/27/18:

Cost to taxpayers: I would like to know what percentage of **actual city property tax revenue** is represented by the property in the proposed hospital footprint, and how the City of Utica plans to offset the loss.

Response 257:

See Response 194.

Comment 258: Steven Grant, President, LSGU, Letter, 12/27/18:

The LSGU supports an extension of the DEIS public comment period by 60 days.

Response 258:

The comment requires clarification of requisite discretionary and absolute timeframes, as outlined in SEQRA and its promulgating regulations (6 NYCRR 617). SEQRA regulations allow for a minimum of 30-days for public review of an Environmental Impact Statement. The Planning Board, as SEQRA Lead Agency, included a 39-day review process; over a week beyond the minimum requirement. Electronic and hard copies of the DEIS were readily available on the City website and at identified public repositories.

In addition, the Planning Board opted to schedule an optional public hearing to provide an additional venue and opportunity for solicitation of public and agency comments. This hearing was held on December 6, 2018.

By the close of the public comment period, the Planning Board had received 17 letters representing substantial substantive comments and encompassing a variety of topics discussed in the DEIS and pertinent to the Project; the written comments were supplemented by a written transcript of the public hearing.

Based on the review of these comments by the Planning Board and Planning Board staff, it was the recommendation of staff that sufficient time was provided to facilitate and adequate review of the DEIS and that the number and nature of received comments is supportive of this conclusion.

Comment 259: Thomas S. West, West Law Firm (on behalf of Brett Truett & NoHospitalDowntown), Letter, 12/27/18:

As reflected in the attached petitions requesting an extension of the public comment period (Exhibit A; [included in Appendix B to this FEIS Responsiveness Summary]), as well as in comments from the Landmarks Society of Greater Utica, dated December 27, 2018 (Exhibit B; [included in Appendix B to this FEIS Responsiveness Summary]), the Board has afforded the public, in effect, the bare minimum of notice and opportunity for comment on what is a massive, complex project with far-reaching, significant adverse environmental implications. See, *e.g.*, 6 NYCRR 617.9(a)(3), (a)(4)(iii). The Board has allowed the public only 39 days to comment (*i.e.*, from November 19th to December 27th) – and this includes two major public holidays, one on a

Thursday (Thanksgiving), and the other on a Tuesday (Christmas). By virtue of the holidays, at least four days were effectively eliminated from the public comment period, leaving only a mere 35 days (at the most), with comments due two days after Christmas. The timeframe set forth by the Board, therefore, is nothing more than a transparent attempt to limit meaningful public input. This conclusion is further highlighted when one observes that the DEIS is a complex document that exceeds 3,500 pages. Accordingly, we maintain that the 35-day review period allowed by the Board is patently insufficient to allow for meaningful public participation in the SEQRA process.

Response 259:

There has been no violation of SEQRA with respect to the public comment period. The SEQRA regulations require a public comment period on the DEIS that is “not less than 30 calendar days from the date of filing or not less than 10 calendar days following a public hearing on the draft EIS.” (6 NYCRR 617.12(a)(2)(iii)). The public comment period was 39 calendar days – 9 days more than the time period required by the regulations. The public hearing on the DEIS was held on December 6, 2018 and the public comment period remained open for 21 calendar days following the public hearing – again in complete accordance with the regulations.

Although the comment period fell during the holiday season, even if the two holidays were subtracted, there were still 37 calendar days available for public comment – which was still 7 days more than the time period required by regulation. Moreover, the Planning Board received 22 substantive comment letters from other State and local agencies, planning board members and those opposed to the Project. These letters were detailed and extensive; demonstrating that the public comment period was sufficient and that no extension is necessary.

Comment 260: Thomas S. West, West Law Firm (on behalf of Brett Truett & NoHospitalDowntown), Letter, 12/27/18:

Adding insult to injury, not only is the timeframe for review of the DEIS inadequate for the DEIS as it stands, in addition, the DEIS is incomplete, as certain of its appendices contain only summaries, not complete studies. See, *e.g.*, Appendix A (site selection executive summary). Although the DEIS states that “complete reports” are provided in appendices (see DEIS, p. xi), such is not the case. The Board’s failure to have appended and made available to the public the entirety of supporting reports to the DEIS has likewise deprived the public of a meaningful opportunity to participate in this process.

Response 260:

The Hospital Site Selection Process Summary Memorandum provided as DEIS Appendix D is the only study relied on by the Board to make its siting decision. The document provided as part of DEIS Appendix A was the Certificate of Need Application submitted by MVHS to NYSDOH. Accordingly, nothing has been omitted from the DEIS that would deprive the public of a meaningful opportunity to participate in the SEQRA process.

Comment 261: Thomas S. West, West Law Firm (on behalf of Brett Truett & NoHospitalDowntown), Letter, 12/27/18:

Accordingly, the timeframe the Board has allotted for public review is inadequate to allow for meaningful public comment and must be extended. We request an extension of the public comment period by at least 60 days, and further request that the 60-day extension commence once all supporting documentation relative to the DEIS is made available to the public and the following procedural and substantive deficiencies have been corrected.

Response 261:

See Responses 258 and 259.

Comment 262: Thomas S. West, West Law Firm (on behalf of Brett Truett & NoHospitalDowntown), Letter, 12/27/18:

On behalf of our clients, Mr. Brett Truett and #NoHospitalDowntown, we submit the following comments on the DEIS provided by MVHS in support of its proposal to demolish culturally significant resources in downtown Utica in order to make way for the IHC.⁴² As an environmental practitioner with more than four decades of experience under the State Environmental Quality Review Act (“SEQRA”), it is appalling to see how far the Applicant and its supporters have gone to subvert the purpose and intent of SEQRA. As a result, the SEQRA process is incomplete and procedurally and substantively defective. Under these circumstances, the SEQRA process should be reopened to correct these blatant defects.

Response 262:

The Planning Board has strictly complied with the SEQRA regulations in connection with its review of the IHC.

Comment 263: Thomas S. West, West Law Firm (on behalf of Brett Truett & NoHospitalDowntown), Letter, 12/27/18:

Per the DEIS, the IHC is proposed to be located on 25 acres in the City of Utica’s Gateway Historic Canal District (the “Downtown Site” or “Project Area”). The proposed Project Area currently consists of over 80 individual properties (including businesses, community land and residences) and will result in the broad-scale displacement or destruction of 40 existing businesses and five not-for-profit organizations/facilities, as well as destruction of a host of historically significant buildings and the character of the Columbia-Lafayette neighborhood as a whole.

Response 263:

See Responses 26, 32, 43 and 60.

Comment 264: Thomas S. West, West Law Firm (on behalf of Brett Truett & NoHospitalDowntown), Letter, 12/27/18:

With all due respect, for the reasons detailed below, we maintain that the City of Utica Planning Board (“Board”), as lead agency under Article 8 of the Environmental Conservation Law (“ECL”) and its implementing regulations, 6 NYCRR Part 617, (collectively, “SEQRA”), has engaged in a defective, incomplete and inadequate environmental review process, as to both timing and substance, thereby rendering the DEIS fatally defective.

Response 264:

This comment is an opinion. The Planning Board has strictly complied with the SEQRA regulations in connection with its review of the IHC.

Comment 265: Thomas S. West, West Law Firm (on behalf of Brett Truett & NoHospitalDowntown), Letter, 12/27/18:

We respectfully maintain, therefore, that, for the reasons set forth above, the SEQRA process must be reopened, a supplemental DEIS issued, and the aforementioned impacts seriously addressed in the public review process.

Response 265:

The comment does not raise any issues that require the public comment period to be reopened or a supplemental DEIS to be issued. The entire SEQRA process is an open and public process and is proceeding as required by the regulations. A draft scoping document was prepared, comments were solicited, and a final scoping document was prepared and accepted by the Lead Agency. The scoping document formed the basis for

⁴² This letter supplements Mr. Truett’s personal comments.

the contents of the DEIS that was prepared, accepted and released for further public review and comment. Once the public comment period ends, SEQRA requires that the Lead Agency review and respond to substantive comments, which has been done in this FEIS. A supplemental EIS is not required unless changes in the Project, newly discovered information, or a change in circumstances have the potential to result in any new, previously undisclosed or unevaluated significant adverse impacts. None of those circumstances exist here.

