

Motion By: ETZEL
Seconded By: RUSZKIEWICZ

FINAL RESOLUTION
(Fiorello Pharmaceuticals, Inc. Project)

A special meeting of the Orange County Industrial Development Agency was held on March 30, 2021 at 6:00 p.m. (local time) at The Accelerator, 4 Crotty Lane, Suite 100, New Windsor, New York 12553 in accordance with Executive Order Number 202.1, as extended by subsequent executive orders.

After the meeting had been duly called to order, the Chairperson announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a proposed project for the benefit of the below-defined Company.

RESOLUTION OF THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY WITH RESPECT TO THE PROJECT AS DESCRIBED BELOW; (ii) ACKNOWLEDGING AND RATIFYING THE NEGATIVE DECLARATION ISSUED BY THE TOWN OF WARWICK PLANNING BOARD PURSUANT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW AND 6 N.Y.C.R.R. PART 617 IN CONNECTION WITH THE PROJECT AS DESCRIBED BELOW; (iii) AUTHORIZING THE AGENCY TO TAKE A LEASEHOLD INTEREST IN AN APPROXIMATELY 38.1±-ACRE PARCEL OF LAND LOCATED AT 40, 50, 60, 70, 80, 85, 90 AND 95 JOHN HICKS DRIVE IN THE TOWN OF WARWICK, ORANGE COUNTY, NEW YORK (THE "LAND"); (iv) AUTHORIZING THE AGENCY TO APPOINT FIORELLO PHARMACEUTICALS, INC. (THE "COMPANY") AS ITS AGENT TO UNDERTAKE A CERTAIN PROJECT (AS MORE FULLY DESCRIBED BELOW); (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF AN AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT AND RELATED DOCUMENTS (INCLUDING BUT NOT LIMITED TO ANY AND ALL DOCUMENTS NECESSARY AND INCIDENTAL TO THE ISSUANCE OF THE BONDS, AS DEFINED BELOW); (vi) DESCRIBING AND AUTHORIZING THE FINANCIAL ASSISTANCE TO BE PROVIDED BY THE AGENCY TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, RENOVATION AND EQUIPPING OF THE PROJECT, (B) A PARTIAL REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH THE TAX AGREEMENT, (C) AN EXEMPTION FROM MORTGAGE RECORDING TAXES IMPOSED ON THE FINANCING RELATED TO THE PROJECT; AND (D) THE ISSUANCE OF TAXABLE REVENUE BONDS IN ONE OR MORE SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT

TO EXCEED \$175,000,000; AND (v) AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER RELATED DOCUMENTS.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 390 of the Laws of 1972 of the State of New York, as amended (hereinafter collectively called the "Act"), the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **IORELLO PHARMACEUTICALS, INC.**, a New York corporation for itself or on behalf of an entity to be formed (collectively, the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency to, among other things, issue its Taxable Revenue Bonds (Fiorello Pharmaceuticals, Inc. Project), Series 2021 (the "Bonds"), in the aggregate principal amount not to exceed \$175,000,000 for the purpose of financing and assisting with a certain project (the "Project"), which Project may be undertaken in one or more phases, consisting of: (A) the acquisition by the Agency of a leasehold interest in an aggregate approximately 38.1-acre parcel of vacant land known as 40, 50, 60, 70, 80, 85, 90 and 95 John Hicks Drive in the Town of Warwick, Orange County, New York (the "Land"); (B) the construction on the Land of an approximately 450,000 square-foot building (the "Improvements"); (C) the acquisition and installation, in, on or around the Improvements of various machinery, equipment and personal property (collectively, the "Equipment"; and, collectively with the Land and the Improvements, the "Facility") all for use by the Company in its business as a licensed manufacturer/processor and dispenser of medical cannabis; (D) funding all or a portion of the costs of a debt service reserve fund, if any, and paying capitalized interest, if any, and certain other costs incidental to the issuance of the Bonds (the costs associated with items (A) through (D) above being hereinafter collectively referred to as the "Project Costs"); and (E) the lease (with the obligation to purchase) or sale of the Agency's interest in the Facility back to the Company; and

WHEREAS, on January 14, 2021, the Agency, by duly approved motion, accepted the Application and directed that a public hearing be held; and

WHEREAS, pursuant to General Municipal Law Section 859-a, on February 9, 2021, at 10:00 a.m. (local time), via Zoom video conference, the Agency held a public hearing with respect to the Project and the proposed financial assistance being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Minutes of the Public Hearing along with the Notice of Public Hearing, which was published and forwarded to the affected taxing jurisdictions ten (10) days prior to said Public Hearing, are attached hereto as **Exhibit A**; and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of acquiring, renovating and equipping the Facility pursuant to a project agreement (the "Project Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and tax agreement (the "Tax

Agreement") with the Company, (iii) take a leasehold interest in the Land, the Improvements, the Equipment and personal property constituting the Project (once the Lease Agreement, Leaseback Agreement and Tax Agreement have been negotiated), and (iii) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, renovation and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement, (c) an exemption from mortgage recording taxes imposed on the financing related to the Project, and (d) the issuance of taxable revenue bonds in one or more series in an aggregate principal amount not to exceed \$175,000,000 (such bonds, if issued, to be non-recourse to the Agency) ((a) through (d) are hereinafter collectively referred to as the "Financial Assistance"); and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively, "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the Town of Warwick Planning Board (the "Planning Board"), acting as "lead agency" (as such quoted term is defined under SEQRA), classified the Project as an "Unlisted" action (as such quoted term is defined under SEQRA), conducted a coordinated review of the Project and issued a "negative declaration" (as such quoted term is defined under SEQRA) with respect to the Project; and

WHEREAS, the Bonds, if issued, will be issued pursuant to an Indenture of Trust, or such other appropriate document, dated such date acceptable to the Chairperson, Vice Chairperson or the Chief Executive Officer of the Agency (each an "Authorized Officer"), by and between the Agency and a to be determined entity to serve as trustee and acceptable to the Authorized Officer (the "Trustee"); and

WHEREAS, the Bonds, if issued, will be initially purchased by an underwriter to be selected by the Company and approved by an Authorized Officer (the "Underwriter"), pursuant to a certain Bond Purchase Agreement, dated such date acceptable to the Authorized Officer (the "Bond Purchase Agreement"), from the Underwriter and accepted by the Agency and the Company; and

WHEREAS, as security for the Bonds, it is contemplated the Agency will (i) grant to the Trustee, for the benefit of the holders of the Bonds, a first priority mortgage lien on and security interest in the Facility pursuant to a Mortgage and Security Agreement, or such other appropriate document, dated such date acceptable to an Authorized Officer (the "Mortgage") and (ii) assign to the Trustee, for the benefit of the holders of the Bonds, all of its right, title and interest in and to the Leaseback Agreement (except the Unassigned Rights), including the right to receive payments and other amounts payable under the Leaseback Agreement pursuant to a certain Pledge and Assignment, or such other appropriate document, dated such date acceptable to an Authorized Officer (the "Pledge and Assignment"); and

WHEREAS, the Project Agreement, the Lease Agreement, Leaseback Agreement, Tax Agreement, Indenture, Bond Purchase Agreement, Mortgage, Pledge and Assignment and related documents will be negotiated and presented to the Agency for execution and delivery subject to the approval of these resolutions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Company presented the Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Application and other correspondence submitted by the Company to the Agency, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, reconstructing, renovating and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Orange County and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(F) The Project involves an "Unlisted" action and the Town of Warwick Planning Board (the "Planning Board"), acting as lead agency and having undertaken a coordinated review, issued a negative declaration on November 6, 2013 (the "Negative Declaration") with respect to the Project; the Agency acknowledges the "hard look" taken by the Planning Board with respect to the Project and hereby ratifies the Negative Declaration issued by the Planning Board. The Agency further determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance contemplated by the Agency with respect to the Project have been satisfied.

Section 2. In consequence of the foregoing, the Agency hereby determines to:

(a) execute a certain Indenture of Trust (the "Indenture"), by and between the Agency and a to be determined trustee (the "Trustee") with such amendments or modifications as the Chairperson, Vice Chairperson and/or Chief Executive Officer (each an "Authorized Officer") deems necessary under the circumstances, provided no such amendment or modification materially alters the risk to the Agency, and issue the Bonds pursuant to the terms thereto; and

(b) execute a certain Bond Purchase Agreement (the "Bond Purchase Agreement"), by and among an underwriter to be selected by the Company and approved by an Authorized Officer (the "Underwriter"), the Company and the Agency, as the Authorized Officer deems necessary under the circumstances, provided no such amendment or modification materially alters the risk to the Agency; and

(c) issue and deliver the Bonds in one or more series of taxable bonds, to the Underwriter, subject however to the approval of the final terms of the Bonds and the terms and conditions of the Bond Purchase Agreement consistent with this resolution, and the prior written approval of all terms contained therein, and of the terms of the Bonds, by the Authorized Officer and by the Company; and

(d) execute and deliver all other certificates and documents, including, but not limited to, the Mortgage and Pledge and Assignment, required in connection with the issuance and sale of the Bonds including the documents identified on the draft closing memorandum and any other documents as may be required to accomplish the Project (the documents listed in (a) through (d) above being hereinafter collectively referred to as the "Financing Documents").

Section 3. The Public Hearing held by the Agency on February 9, 2021, concerning the Project and the Financial Assistance, was duly held in accordance with the Act, including, but not limited to, the giving of at least ten (10) days published notice of the Public Hearing, affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 4. The Agency is hereby authorized to provide to the Company the Financial Assistance in the form of (a) the issuance of taxable revenue bonds in one or more series in an aggregate principal amount not to exceed \$175,000,000, (b) an exemption from sales and use tax for the purchase or rentals of goods and services in connection with the Project, (c) a real property tax abatement structured through the Tax Agreement, and (d) an exemption from mortgage recording taxes imposed on the financing related to the Project by the State.

Section 5. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, reconstruction, renovation and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, renovate and equip the

Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the Project Agreement shall expire on **June 30, 2025** (unless extended for good cause by the Chief Executive Officer of the Agency) if the Lease Agreement, Leaseback Agreement and Tax Agreement contemplated have not been executed and delivered.

Section 6. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$97,300,000**, which result in New York State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$7,905,625**. The Agency agrees to consider any requests by the Company for increase to the amount of Sales and Use Tax Exemption Benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any Sales and Use Tax Exemption Benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 7. The Chairperson, Vice Chairperson and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (A) the Project Agreement, (B) the Lease Agreement whereby the Company leases the Project to the Agency, (C) the related Leaseback Agreement conveying the Project back to the Company, (D) the Tax Agreement, through which a partial real property tax abatement is effectuated; provided, however, the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency

by the Company for actions taken by the Company and/or claims arising out of or related to the Project and (E) the Financing Documents.

Section 8. The Chairperson, Vice Chairperson and/or Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance equipment and other personal property and related transactional costs (hereinafter, with the Lease Agreement, Leaseback Agreement and Tax Agreement are collectively referred to as, the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency, if any, to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairperson, Vice Chairperson and/or Chief Executive Officer of the Agency shall approve, the execution thereof by the Chairperson, Vice Chairperson and/or Chief Executive Officer of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 10. Due to the complex nature of this transaction, the Agency hereby authorizes its Chairperson, Vice Chairperson and/or Chief Executive Officer of the Agency to approve, execute and deliver such further agreements, documents and certificates as the Agency may be advised by counsel to the Agency to be necessary or desirable to effectuate the foregoing; such approval to be conclusively evidenced by the execution of any such agreements, documents or certificates by the Chairperson, Vice Chairperson and/or Chief Executive Officer of the Agency.

Section 11. These Resolutions shall take effect immediately.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
John Douthit				X
Mike Torelli	X			
Paul Ruskiewicz	X			
Lesley Pierri	X			
Vincent Odock	X			
Tyler Etzel	X			

The Resolutions were thereupon duly adopted.

STATE OF NEW YORK)
COUNTY OF ORANGE) ss:

I, the undersigned Secretary of the Orange County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing extract of the minutes of the special meeting of the Orange County Industrial Development Agency (the "Agency") including the resolution contained therein, held on the 30th day of March, 2021, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with Article 7.

I FURTHER CERTIFY that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Agency this 30 day of March, 2021.

By:  _____
Lesley Pierri, Secretary

Exhibit A

Public Hearing Minutes & Notice of Public Hearing

[See Attached]